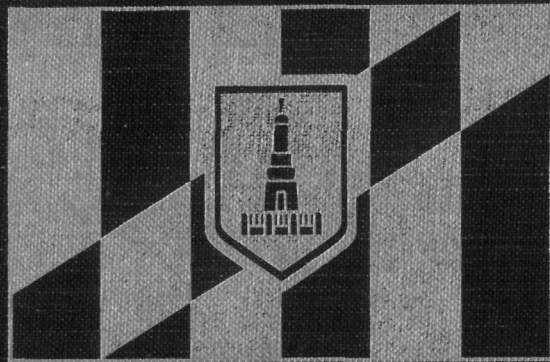


JOHN  
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*Editor*

HISTORIES OF THE BENCH & BAR of Baltimore City



BALTIMORE COURTHOUSE AND  
LAW MUSEUM FOUNDATION



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# Histories of the Bench & Bar

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## of Baltimore City

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*In Commemoration of the  
Bicentennial of Baltimore City, 1797-1997*

*John B. Jones*

of Baltimore City



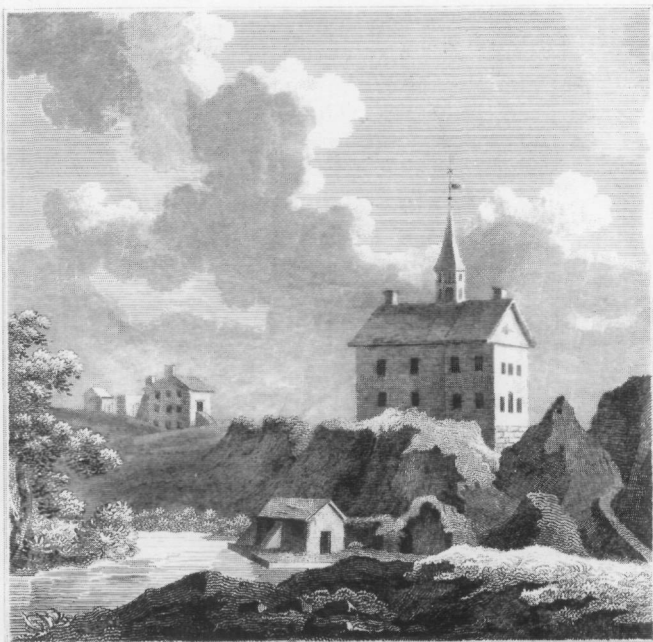
# HISTORIES OF THE BENCH & BAR of Baltimore City



IN COMMEMORATION OF THE  
BICENTENNIAL OF BALTIMORE CITY  
1797-1997



BALTIMORE COURTHOUSE AND LAW MUSEUM FOUNDATION  
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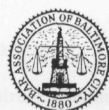


*Baltimore Town's Old Court House and Powder Magazine—  
from a 1786 view, Engraving by M. Godefroy circa 1810,  
Maryland Historical Society. The small building in the  
foreground is a gunpowder magazine.*

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# Histories of the Bench & Bar of Baltimore City

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IN COMMEMORATION OF THE  
BICENTENNIAL OF BALTIMORE CITY  
1797-1997



BALTIMORE COURTHOUSE AND LAW MUSEUM FOUNDATION  
Baltimore, Maryland 1997

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## Foreword

T

THESE COMMEMORATIVE HISTORIES CELEBRATE the bicentennial of Baltimore City. They are a collaborative celebration by The Baltimore Courthouse and Law Museum Foundation, the judges of the Circuit Court for Baltimore City and the Bar Association of Baltimore City.

Not a complete history; it is a collection of monographs that present an informative mosaic of the life of the law in our City's history. After a discussion of how our Circuit Bench evolved from the colonial era in the context of statewide constitutional change, including a fine sketch of our several courthouses by Michael E. Greene, Esquire; a discussion of the history of the Administrative Judge position, by Eric R. Harlan, Esquire; and the first published list of the judges who have served the citizens of Baltimore City at the Circuit level, District Judge John M. Glynn discusses the history of the District Court. Next are two papers on the rich diversity of the City's legal history: *The Baltimore City Court and the African American Lawyer* by retired Judge Solomon Baylor and *Women of the Baltimore Bar* by Joan Bossman Gordon, Esquire. The final paper, by Francis J. Gorman, Esquire, glances briefly at our good judicial neighbors, the Federal judiciary.

If the past is prologue, citizens of Baltimore City can expect the inevitable historical dynamic, particularly where lawyers are gathered: spirited resistance to change and thoughtful change, nevertheless. Resistance, except to the recognition of the dignity and high professional worth of talented African American and female lawyers, has caused a creative and positive tension, providing needed democratic assurance of reasonable accommodation of diverse viewpoints and consequent acceptance of change by the citizenry. Although resistance in some

instances slows needed change, for example, the popular defeat of the proposed constitution in 1968, it also very likely makes the change more thoughtful and acceptable when it comes.

The judicial system in and of Baltimore City has adapted well to the changing needs of the people it serves. Judges and practitioners of the eighteenth and nineteenth centuries surely would marvel at the changes in the very character of the Bench: parental education seminars and films, settlement and mediation sessions, Guidelines on Civility for attorney conduct, differentiated case management, pre-trial discovery and scheduling orders, and "Drug Courts," all presided over by thirty judges, ten masters, and numerous volunteer lawyer-mediators. The law, its courts, and its practitioners are living organisms of our body politic; and they are, these modest historians are happy to report, healthy.

John Carroll Byrnes  
Chair, The History Project  
The Baltimore Courthouse and  
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# CHAPTER ONE

## Evolution of the Circuit Court for Baltimore City 1632–1997

*by John Carroll Byrnes<sup>1</sup>*

THE CIRCUIT COURT FOR BALTIMORE City has evolved in response to the growth of the city that it serves. Judicial authority in what became Baltimore City was originally held by the Baltimore County Court as established by the Maryland Constitution of 1776. As the City's population grew, courts were created to meet its specific needs, ultimately leading to the establishment of the present Circuit Court for Baltimore City in 1983.

### The Colonial Period

Originally, all executive, legislative, and judicial power was delegated to the "Proprietary," the legal entity created by the colony's original charter. King Charles I granted this charter to Caecilius Calvert on June 20, 1632,<sup>2</sup> giving Lord Baltimore a very precise set of powers that he was to exercise over the province of Maryland.<sup>3</sup> The charter established that Lord Baltimore was to execute these powers according to the explicit terms of the charter in a manner not repugnant to the laws of England. In addition the charter provided that Lord Baltimore was to act with the advice of the Freemen of the province through the right of the "Assembly" to participate in law making. Finally, the Proprietor's powers were to be exercised subject to the sovereignty of the King of England and his heirs.<sup>4</sup>

At the behest of Cecil Calvert, the first settlers came to Maryland on the *Ark* and the *Dove*, in 1634. The two ships arrived at St. Clement's Island in the Potomac River, the Western shore of the Chesapeake Bay, and those colonists founded their settlement at St. Mary's City on the St. Mary's River in southern Maryland.

It was in this unpretentious village, composed mainly of log huts and wigwams, that Maryland jurisprudence began. In Section 7 of the Charter of Maryland, Caecilius Calvert, Baron of Baltimore, was granted:

Free, full, and absolute power . . . to constitute and ordain judges, justices, magistrates and officers, of what kind, for what cause, and with what power soever [sic], within that land . . . and also to remit, release, pardon, and abolish all crimes and offenses whatsoever against such laws, whether before, or after judgment passed; and to do all the singular other things belonging to the completion of justice, and to courts, praetorian judicatories, and tribunals, judicial forms and modes of proceeding, although express mention thereof in these presents be not made; And, by judges by them delegated, to award process, hold judicatories, and tribunals, in all actions, suits, causes, and matters whatsoever . . .

Lord Baltimore delegated his executive authority over the Maryland proprietary to his trusted brother Leonard Calvert who traveled to Maryland to preside as governor. Leonard Calvert (generally referred to in colonial records as the "Lieutenant General") was the leader of the first expedition to Maryland in 1634,<sup>5</sup> landing at the Indian village of Yowacomico, renamed St. Mary's City.<sup>6</sup> His commission on April 15, 1637 made him governor, chancellor, chief justice, and chief magistrate within the province of Maryland and entrusted him with the power to appoint and constitute officers "for the preservation of Peace, administration and execution of justice."<sup>7</sup> It was specified in the Governor's commission that he was to be assisted by a board of three councillors; Jerome Hawley, Thomas Cornwalleys, and John Lewger were the first appointed members of Lord Baltimore's council.<sup>8</sup> Together the Governor and councillors made up the first Provincial Court of Maryland.<sup>9</sup> In December of 1637, the Provincial Court met at St. Mary's for the first time with Leonard Calvert presiding as the first judge of record.<sup>10</sup>

Calvert's charter was the genesis of an organized system of courts and a judiciary system staffed by men learned in the law. As might be expected, the earliest courts in colonial Maryland were similar to those in England.<sup>11</sup> The colonists, however, modified certain aspects of English legal institutions and procedures to suit their needs.<sup>12</sup> For instance, manorial and hundred courts played only a minor part in early Maryland jurisprudence; whereas in England, those courts were extensively used.<sup>13</sup> Also, Maryland's Prerogative Court, which, like the English ecclesiastical court, handled probate matters, was always a lay court.<sup>14</sup> Indicative of the power vested in him, Governor Calvert began judicial history in Maryland by personally performing all judicial functions for the province.<sup>15</sup>

When, in the 1630's, Lord Baltimore recommissioned Leonard Calvert as



*George Calvert, Lord Baltimore, Oil Portrait from life by Daniel Mytens, the Elder. Lord Baltimore lived from 1580 to 1632, and never visited the colony he received by grant from King James I. Reproduced by courtesy of the trustees of the Rt. Hon. Olive, Countess Fitzwilliam's Chattels Settlement, and Lady Juliet de Chair.*

Governor of Maryland, his Council of Advisors was also recommissioned to rule in collaboration with him.<sup>16</sup> In 1650, when the General Assembly organized into a bicameral body, this council became the upper house of the Assembly, the legislative body charged with enacting laws for the Proprietary.<sup>17</sup> Thus, the Governor and Council exercised judicial, executive, and legislative functions.<sup>18</sup>

One of the first laws the Assembly passed was the 1638 law “establish[ing] courts for the geographic areas known as St. Mary’s and Kent Island”<sup>19</sup> marking the beginning of courts with separate geographical jurisdictions in Maryland. As a matter of law, the Governor was still the original and appellate judge in all civil cases, having received these powers from the Lord Proprietor.<sup>20</sup>

In March 1638/9, Kent Island was designated as a separate jurisdiction which, in accordance with the English governing tradition, was sometimes referred to as a “hundred,” and the power of a justice of the peace was given to a “Commander,” who was both a judicial and executive officer.<sup>21</sup> Kent Island became a county by the year 1642, and its commander both governed and sat as chief judge of the county.<sup>22</sup> The commander was assisted by three commissioners, as county court justices were often called during the colonial period.<sup>23</sup> Because the capital of the province was located in St. Mary’s County, there was a slight delay in the development of the county court there.<sup>24</sup> By 1644 there was a permanently established county court in St. Mary’s County.<sup>25</sup> As a matter of general practice, the Governor could delegate his authority to preside over cases. In serious cases including criminal cases, the Governor and two of his council members sat as judges of law. In some civil and all criminal cases, a jury of twelve was available in this court.

The Governor, sitting as chief judge, and his council of associate justices composed the first general court—the colonial Provincial Court. Next to the Assembly, this court was the supreme court of the province.<sup>26</sup> In 1642 the legislature passed a law that distinguished sharply the jurisdiction of the Provincial Court from the jurisdiction of the County Court.<sup>27</sup> The Provincial Court was modeled after the superior courts of common law in England and most resembled the Court of King’s Bench.<sup>28</sup> As the judicial caseload increased, the Governor increasingly relied on the members of his advisory council, some of whom were schooled in the law. Although none made their living as judges, in a very real sense these advisory council members were the first professional judges in Maryland.<sup>29</sup>

After the development of the first county court in Kent County, more county courts followed as more counties were formed.<sup>30</sup> In addition, there were a number of minor courts in the province. Lord Baltimore had been empowered to “erect manors and in every of those manors to have and hold a Court Baron, and all things which to a Court Baron belong.”<sup>31</sup> The manorial courts were allowed to hear both civil and criminal cases arising on manorial lands.<sup>32</sup> The Courts Baron and Leet resembled the ancient feudal courts of England,<sup>33</sup> and handled such matters as pig stealing, fowling without a license, and sedge cutting on manor lands.<sup>34</sup> Other divisions of land called hundreds were formed, and each hundreds received its own hundreds court.<sup>35</sup>

In general, the organization of the courts became much more formal in the province of Maryland in the 1660’s. Although the Provincial Court and the County Courts had overlapping and complementary jurisdictions, the Provincial Court clear-



ly had superior jurisdiction as the general court of common law. The borderline between the two courts was a constantly evolving boundary. Originally, the County Courts were given jurisdiction over any civil case in which the value in dispute did not exceed 3,000 pounds of tobacco or any criminal case "not involving life or member."<sup>36</sup> By 1694, the County Courts' jurisdiction expanded to those civil cases involving a value of 10,000 pounds of tobacco.<sup>37</sup> During this period, tobacco was both a commodity and a medium of accounting. Merchants, farmers, and the Proprietary government routinely kept two separate sets of books, one in tobacco and one in English sterling. The value of tobacco in relation to sterling was in constant flux. Money was lent or borrowed using either sterling or tobacco, only rarely both.

No limit was placed on the Provincial Court for those cases that it was authorized to hear. By 1710, the jurisdiction of the Provincial Court was limited to cases wherein the debt or damage was no less than the value of 5,000 pounds of tobacco.<sup>38</sup> These jurisdictional limits remained until 1773 when the County Courts were given exclusive authority over all civil cases of less than 30,000 pounds of tobacco in value.<sup>39</sup> Furthermore, the County Courts were given concurrent jurisdiction with the Provincial Court over all criminal matters.<sup>40</sup> Finally, the Provincial Court had concurrent jurisdiction with the County Courts for the vital function of recording the conveyances of land, a procedure that was made compulsory in 1674.<sup>41</sup>

### ***The Development of the General Assembly With Judicial Power***

The early proceedings in the General Assembly of Maryland were similar to those of like bodies in England,<sup>42</sup> which sat as courts of law and legislature.<sup>43</sup> As a result, this tradition and its precedents served as a point of reference for the early decisions of the Maryland General Assembly.<sup>44</sup> In addition to trying cases, the General Assembly also heard appeals from various lower courts as they began to appear throughout the Province.<sup>45</sup> However, in 1650, the Assembly was divided into Upper and Lower Houses.<sup>46</sup> After that division, the Upper House, the Governor and Council, functioned as a court of appeals.<sup>47</sup> Prior to 1694 the right of appeal appears to have been underutilized.<sup>48</sup> One suggested explanation is that the same body of men sat on both the Provincial Court and the Court of Appeals. Since the Provincial Court, in addition to the growing number of County Courts, was the trial court from which most appeals would have originated, there may have been a discouraging sense of futility in seeking a reversal from the same men who had rendered the original judgment.<sup>49</sup> The custom of dual judicial roles was so greatly criticized that the practice developed that a Council member would not sit on the Court of Appeals when he had sat as trial judge in the same case.<sup>50</sup>

### ***The Development of the Chancery Court***

The origins of an equity jurisdiction in Maryland followed the English model, where cases were heard by a single judge in Chancery using procedures distinctly

different from those of the common law.<sup>51</sup> The office of Chancellor was one of the powers and duties issued to the Governor in his Commission.<sup>52</sup>

Initially, both law and equity cases were tried before the Provincial Court. However, the number of Chancery cases being brought into the Provincial Courts increased and in 1669 the Chancery Court became a court in its own right.<sup>53</sup> Chancery cases required an equitable solution that could not be decided on the basis of the common law.<sup>54</sup> From 1669 to 1675, Governor Charles Calvert presided over the Chancery Court and often held court jointly with the Provincial Court. In 1715, the jurisdiction of the Chancery Court was limited to cases involving a value of more than 1,201 pounds of tobacco or £5 and 1 penny sterling, but no maximum limit was established.<sup>55</sup> There were between three and seven judges until 1720, when the Chancery Court became a one-man court presided over by the Chancellor, who was almost always the Governor.<sup>56</sup>

### *The Development of Other Courts*

The colonial Prerogative Court had its roots in the English system for the administration of probate matters. In England during the time of the exploration and settlement of the colonies, the law discouraged ownership of property by women, and increasingly weakened the customary protections for widows.<sup>57</sup> Minor children were proscribed from directly inheriting estates. Because few procedural safeguards were in place to protect a minor male's inheritance until he reached majority, his property would sometimes be exploited by his mother's second husband.<sup>58</sup>

Likewise, women and female children who found themselves in the peculiar position of being the recipients of an estate from a deceased husband or father were generally left to the mercy of a second husband or male relative to manage the estate in a fair and equitable manner. It was not uncommon for an estate, absent an adult male beneficiary, to be siphoned away and squandered without legal consequences or recourse.

The English inheritance laws followed the colonists from England to America, and the inequities that had arisen in England also persisted in the colonies. As in England, colonial women and minor children were legally disadvantaged with respect to owning property. Colonial life presented an additional hardship because of the shortage of relatives in the colonies to manage a decedent's estate and protect an intended heir's interests.<sup>59</sup> However, the General Assembly passed many laws in the seventeenth century designed to protect widows and orphans' estates.

A dual judicial system had emerged in England to protect the property of widows and minor orphans. A common law system administered by the courts of the sovereign developed alongside a civil and canon law system administered through the Ecclesiastical Courts of the Church.<sup>60</sup> The relationship between the two courts was not harmonious; the jurisdiction of the Ecclesiastical Court was constantly under attack by the common law court.<sup>61</sup> Although probate matters continued to be handled by church authorities until 1858, the Ecclesiastical Courts were diminished in

1640 in England. Maryland was thus left to establish its own common law system for dealing with probate matters.<sup>62</sup>

In addition to being granted the office of Chancellor in his commission as the first Governor of Maryland in 1637,<sup>63</sup> Leonard Calvert was given power over probate matters. Initially, this authority was assigned to the Governor's Secretary, finding authority "in causes testamentary, to prove the last wills and testaments of persons deceased, and to grant [administration] of the estates of persons dying intestate."<sup>64</sup> By 1670 the responsibilities of the Secretaries in probate matters had evolved into their own special court, which came to be called the Prerogative Court, the highest officer of which was the Commissary General.

Besides the Prerogative Court and the other courts in early Maryland, there is evidence that an Admiralty Court existed during the colonial period.<sup>65</sup> It appears that between 1695 and 1696, two Admiralty Courts were established, one on each shore. However, in 1696 only the Western Shore Court was recommissioned.<sup>66</sup> One record of this court from 1754 speaks of the Court being in "continuous existence."<sup>67</sup> In addition, this record portrays "the appointment of a full compliment of officers, which may or may not indicate that the Court was once again being reconstituted."<sup>68</sup> Around 1756, the Admiralty Court's jurisdiction included contracts, accounts, wages, treason, piracy, felonies, fugitives, mayhem, and bottomry (cases involving a shipowner who put the ship up as security for a loan).<sup>69</sup> A Court of Admiralty is again mentioned in the Maryland Constitution of 1776. This Constitution stipulated that a Court of Admiralty was to try "captures and seizures made pursuant to the resolves of the Continental Congress and brought into a Maryland Port."<sup>70</sup> In 1789, admiralty jurisdiction was given to the federal courts, and the Court of Admiralty ceased to function.<sup>71</sup>

As the population of Maryland grew, it dispersed geographically as well.<sup>72</sup> In part to facilitate geographic access to the justice system, more judicial districts were created, precursors of our modern counties. St. Mary's, Kent, and Providence (Anne Arundel) were established shortly before Charles, Calvert, and Baltimore Counties.<sup>73</sup> The old office of county commander was abolished, and in its place, the Assembly created county commissions to perform all governmental functions, including the administration of justice. The county commissioners sat as judges in minor civil and criminal trials. These judges functioned as county courts.<sup>74</sup> The Provincial Court (the advisory council) retained exclusive jurisdiction over large civil trials, all serious criminal matters, and all appeals. Under the Maryland Constitution of 1776, the Provincial Court was renamed the General Court.<sup>75</sup>

### ***The Beginning of Baltimore City***

On August 8, 1729, Governor Benedict Leonard Calvert, Esq., on behalf of Charles Calvert, Fifth Lord Baltimore, Proprietary of the Province of Maryland and Avalon, signed into law the authorization by the Maryland General Assembly for

the purchase of sixty acres of farmland in what was commonly called Cole's Harbor<sup>76</sup> for the erection of a town.<sup>77</sup> The land was to be apportioned into one acre lots, and all subdivisions of that land were to be recorded with the Clerk of the Baltimore County court.<sup>78</sup> This was the beginning of what is now Baltimore City. The property upon which Baltimore-Town was founded belonged to Charles Carroll and his brother Daniel.<sup>79</sup> Its first government consisted of seven commissioners with life tenure whose responsibility was to finalize the purchase and to lay out the 60 equal lots. The commissioners of the new town agreed to pay the Carrolls forty shillings per acre.<sup>80</sup> As originally laid out, the town extended from Gay Street on the east to Liberty Street on the west. The water front etched out the southern border of the town while an irregular line near Lexington and Fayette Streets marked its northern boundary.<sup>81</sup> As owner of the property, Charles Carroll had the first choice of lots, and he selected a spot near the northeast corner of the basin and Calvert Street.<sup>82</sup>

When Baltimore-Town was first recognized by the General Assembly, the county seat where the Baltimore County Court presided was located in what was then called Joppa.<sup>83</sup> The location of the county seat in the upper part of the county reflects that the eastern and northern portions of the county were the most populous for a time.<sup>84</sup> Although Joppa prospered, it was increasingly rivaled in importance by Baltimore-Town with its superior geographic suitability for trade and commerce.<sup>85</sup> By 1768, its population having increased from forty three to several thousand,<sup>86</sup> Baltimore-Town had outgrown Joppa, and the county seat was relocated to Baltimore-Town,<sup>87</sup> where the county court for Baltimore County thereafter had its seat.<sup>88</sup>

## The Revolutionary Period

### *The Maryland Revolutionary Conventions*

As revolutionary ferment grew in the colonies,<sup>89</sup> Maryland's House of Delegates took on greater significance, not because of powers formally added, but because of their greater popular support.<sup>90</sup> The May 14, 1773 election produced victories for a nationalist "Country" party<sup>91</sup> in the House, and defeat for many English loyalists.<sup>92</sup> On April 19, 1774, Governor Eden terminated the session, and prorogued the Provincial Assembly, which would not resume session until it did so as the legislature of the new State of Maryland. During this period, Governor Eden also was inactive, apparently awaiting resolution of the uncertain situation.<sup>93</sup>

While the *de jure* government of the Proprietary was unable to act, a *de facto* government by convention arose virtually unchallenged to run the affairs of government. In total, nine conventions were held, the first June 22–25, 1774,<sup>94</sup> and the last from August 14 through November 11, 1776,<sup>95</sup> concluding with the adoption of the first

constitution of the State of Maryland. The first two conventions addressed policy questions; however, by the third convention, the delegates began to deal with the daily business of running the colony. The fifth convention adopted an "Association of the Freemen of Maryland" that bound the people of the province into a loose political organization.<sup>96</sup> That document served as the basis of government until the adoption of the first constitution.

The Baltimore Courthouse was the site of revolutionary organizing in May of 1774. It was there that "a committee to correspond with the neighboring colonies, as the exigencies of affairs may make it occasionally necessary" was appointed. It was also there, two years later on July 29, 1776, that the Declaration of Independence was read and where "the inhabitants of Baltimore assembled in town meeting and took into consideration of the security of the town."<sup>97</sup>

Regarding the judiciary, the 1774 Convention allowed the Proprietary courts to function, although the legitimacy and power of the Proprietary government was slipping quickly.<sup>98</sup> However, "the Convention ordered that, in all pending suits, settlements should be made . . . [or] the proceedings suspended pending further developments."<sup>99</sup> Only by permission of a special Convention committee could a suit be tried. The Convention committee, while not eliminating the Proprietary courts, took control of most judicial functions.<sup>100</sup> On June 28, 1776, the eighth convention of Maryland authorized its representatives to the Continental Congress in Philadelphia to vote for independence.<sup>101</sup> This convention officially declared the State of Maryland free from Great Britain. The Continental Congress, on July 4, 1776, declared the independence of the colonies, and the Maryland convention followed suit on July 6, 1776, with a Declaration of the Delegates of Maryland.<sup>102</sup> This convention also called for elections to a ninth convention to draft a new constitution; the convention was to be held beginning August 12, 1776.<sup>103</sup> With the adoption on November 8, 1776, of the Constitution and Form of Government, Maryland made the transition from provincial to state government.

That transition brought about some changes in the judicial system as it had existed prior to that time: while the county court system did not change in Maryland; it was the State Constitution that now authorized the court system, not a provincial government of the Crown of England.<sup>104</sup>

### ***The Maryland Constitution of 1776***

"The Declaration of Rights" of the Maryland Constitution asserted the right of the inhabitants of Maryland to the common law of England and trial by jury. "Multiple holdings of office and excessive court fees were condemned. . . ."<sup>105</sup> In addition, the principle of separation of powers was clearly articulated. The legislative, executive and judicial powers of the government were to be separate and distinct.<sup>106</sup> The new constitution explicitly provided that judges could not hold any other governmental posi-



tion. The Governor, with the advice of his new advisory council, was to have the power to appoint judges who were to have life tenure subject to removal by the General Assembly for misbehavior.<sup>107</sup>

One significant provision in that Constitution stipulated that all judges "shall hold their commissions during good behavior, removable only for misbehavior, on conviction in a court of law."<sup>108</sup> Furthermore, the 1776 Constitution provided that judges could not directly or indirectly receive any fee or reward for doing his office other than that allowed by law. Judges could also not receive any part of the profits of any office held by another person.<sup>109</sup>

The judiciary established by Article 56 of the Maryland Constitution of 1776 consisted of:

[A] Court of Appeals, composed of persons of integrity and sound judgment in the law, whose judgment shall be final and conclusive in all cases of appeal, from the General Court, Court of Chancery, and Court of Admiralty: That one person of integrity and sound judgment in the law, be appointed Chancellor: That three persons of integrity and sound judgment in the law, be appointed judges of the Court now called the Provincial Court; and that the same court be hereafter called and known by the name of *The General Court*. . . .<sup>110</sup>

Because the separation of powers concept ran contrary to the then-existing practice of having the upper house of the General Assembly sit as an appellate court of last resort, the Court of Appeals was created by the Maryland Constitution of 1776. Although the Maryland Constitution of 1776 did not set the number of judges on the Court of Appeals, five judges were commissioned in 1778.<sup>111</sup> The Judiciary Bill of 1801 reduced that number to three.<sup>112</sup> In addition to the new Court of Appeals, the Provincial Court which had heard appeals from county courts as well as the more substantial criminal and civil trials was reformed as an intermediate appellate court to be known as the General Court.<sup>113</sup> The General Courts of the Eastern and Western Shore had identical civil and criminal jurisdiction and heard appeals from the county courts. Additionally, the two courts served as courts of record.<sup>114</sup> The General Court grew to handle a great volume of cases and boasted the most eminent of justices, among them Samuel Chase, Robert Goldsborough, Jeremiah Townley Chase, and Gabriel DuVall.<sup>115</sup>

The county courts were vested with original jurisdiction over all trials, civil and criminal.<sup>116</sup> Statewide equity jurisdiction remained vested in a single Chancellor.<sup>117</sup> The Constitution of 1776 permanently separated the offices of Governor and Chancellor, although the Chancery Court's jurisdiction in equity was largely unaffected.<sup>118</sup> While the county courts were generally recognized by the Maryland Constitution of 1776,<sup>119</sup> not until 1785 did the General Assembly codify the jurisdiction of the Baltimore County Court over all disputes in law, equity (concurrent with the Chancery Court),<sup>120</sup> and criminal matters.<sup>121</sup>

The only court abolished was the Prerogative Court which handled probate matters. In its stead, the 1776 Constitution provided "[t]hat there be a register of wills

appointed for each county, who shall be commissioned by the governor, on the joint recommendation of the Senate and House of Delegates."<sup>122</sup> The question of how probate affairs were to be handled under the new state government was resolved by one of the Acts of February 1777 passed during the first meeting of the new government's General Assembly. This act abolished the lucrative office of Commissary General and established an Orphans' Court in each County.<sup>123</sup> Under the act, the Register of Wills was to be the clerk of the Orphans' Court and to hold all powers previously held by the Deputy Commissary. The judges of these new courts, who were commissioned by the Governor with the advice and consent of his Advisory Council, performed essentially the same duties as had the Prerogative Court. The primary difference was that probate matters were no longer handled in Annapolis by a centralized probate court, but locally instead.<sup>124</sup>

"In 1790, the General Assembly provided that the county courts would be composed of a chief judge and two associate judges who would . . ."<sup>125</sup> sit together to hear cases. Only the chief judge needed to be "learned in the law." The County Courts were to hear cases at law. Equity jurisdiction was given to a single Chancery court judge for the entire State.

Although Baltimore Town had been recognized by the General Assembly in 1729, not until 1768 (when it became the seat of Baltimore County) did Baltimore-Town host a sitting court. In 1788, a criminal court was established for the county and the town, presumably within the Baltimore County Court.<sup>126</sup> In 1794, Governor Thomas Sim Lee, because of an increase in burglary, robbery, horsetealing, and other crimes issued a commission for a Court of Oyer and Terminer<sup>127</sup> and Gaol Delivery<sup>128</sup> in Baltimore County based upon a law passed in 1793.<sup>129</sup> Since Baltimore-Town was still the seat of Baltimore County at that point, this original court sat there and had jurisdiction over crimes committed in both the town and the County. Governor Lee designated one person to be Chief Justice of the Court of Oyer and Terminer and Gaol Delivery and four Associate Justices. These five judges were appointed by the Governor for life. Those convicted of various crimes could be required to serve as laborers on the public roads of the county or in making, repairing, or cleaning the streets or water areas of Baltimore-Town.<sup>130</sup> Capital punishment was liberally available. For example, a person was eligible for a sentence of death without the benefit of clergy for the crimes of "put[ting] out an eye, slit[ting] the nose, cut[ting] of the nose or lip, or cut[ting] off or disabl[ing] any limb . . . with [the] intention of so doing to maim or disfigure" another person.<sup>131</sup>

In addition, the law provided that:

[a]ll crimes, offenses and misdemeanors, committed, or that may hereafter be committed, during the continuance of this act in Baltimore county, and not particularly directed by law to be tried in the general court, shall be tried heard and determined, before said five persons, or any three or more of them, in court sitting, and not in the county court of the said county.<sup>132</sup>





*Plan for Baltimore Town, 1796. The street grid and lot divisions for the explosively growing Mid-Atlantic port town are depicted.*

Thus, the jurisdiction over various crimes and misdemeanors was transferred from the Baltimore County Court to the Court of Oyer and Terminer and Gaol Delivery of Baltimore County.<sup>133</sup>

The Baltimore-Town that had been established on August 8, 1729, had prospered as a great port and one of the largest population centers in the Republic. On September 28, 1745, Baltimore-Town and Jones Town merged and seven new commissioners were appointed. Although remaining subject to the civil authorities of Baltimore County, by 1763 the self-governing authority of the town had expanded from the initial real estate responsibility of the first commissioners to a more general superintendency over its own internal affairs. Inevitably, popular interest in full self government grew; and by 1782 there was significant political support for incorporation. On December 28, 1793, the General Assembly authorized incorporation subject to its later final confirmation. That confirmation was not forthcoming, however, because objections were voiced about suffrage being limited to those of at least twenty five years of age; excessive power and influence in the office of the mayor; the exclusion of "free negroes and people of color . . . [which was] contrary to reason and good policy, to the spirit of equal liberty and our free constitution." In sum, they protested that there would be too little direct democracy.<sup>134</sup> During the ensuing few years, discussions con-

tinued towards compromises, and in 1796 the General Assembly again considered the question of incorporation.

## Baltimore City Established

On December 31, 1796, the General Assembly, by a legislative act "to erect Baltimore-Town, in Baltimore County, into a city, and to incorporate the inhabitants thereof," gave official recognition to the City of Baltimore.<sup>135</sup>

WHEREAS it is found by experience that the good order, health, peace and safety, of large towns and cities cannot be preserved, nor the evils and accidents to which they are subject avoided or remedied, without an internal power, competent to establish a police and regulation fitted to their particular circumstances, wants and exigencies; therefore,

BE IT ENACTED, *by the General Assembly of Maryland*, That Baltimore-town, in Baltimore county, shall be and is hereby erected into a city, by the name of The City of Baltimore, and the inhabitants thereof constituted a body politic and corporate, by the name of The Mayor and City Council of Baltimore. . . .<sup>136</sup>

The city was to be run by a mayor and City Council consisting of two branches. On January 16, 1797, there was an election of two electors of councilmembers and one elector of the Mayor from each of the eight wards of the City. On February 21, 1797, the electors met and elected eight members of the Second Branch and the City's first Mayor, James Calhoun. On that same day a popular election installed the First Branch consisting of two members from each ward. Hercules Courtenay, Esq. became the president of the First Branch, and John Merryman president of the Second Branch.<sup>137</sup> The City Council of Baltimore held its first meeting on February 27, 1797, at the courthouse.<sup>138</sup> As for the creation of new laws for the city, the incorporating law provided that:

[A]ll ordinances or acts passed by the city council shall be sent to the mayor for his approbation, and when approved by him, shall become a law, and shall then be obligatory upon the several courts and justices of the peace of Baltimore county, sheriff and constables within the limits of the city of Baltimore, and all other persons within the limits of said city, to every intent and purpose, as the acts of the general assembly of Maryland, provided said laws or ordinances shall not contain anything repugnant to the constitution or laws of this state, or the United States.<sup>139</sup>

For a brief period of two years (1798–1800), pursuant to a law taking effect on March 1, 1798, the Baltimore City Court was established to have criminal jurisdiction over crimes committed in the City limits. This Court consisted of two associate justices and was, historically, the first court with exclusive city jurisdiction.<sup>140</sup>

In 1800, however, jurisdiction over criminal matters reverted to the Baltimore County Court of Oyer and Terminer and Gaol Delivery which was restructured in 1799 to consist of one Chief Justice and two associate justices.<sup>141</sup>

The next significant development in the evolution of the state's judicial system took place in 1801, when the General Assembly passed what is commonly referred to as the Judiciary Bill.<sup>142</sup> During the early years of the Republic, the system for administering justice in Maryland as in other states, remained highly centralized, as it had been in pre-revolutionary times. Most cases of importance were heard in the General Court or in Chancery.<sup>143</sup> Although the Court of Appeals was the highest court in the state, the General Court heard most appeals and important civil cases.<sup>144</sup> There was a movement afoot in several of the new states to decentralize the power of the judiciary by expanding the jurisdiction of the county courts.<sup>145</sup> Maryland's fledgling Assembly had in 1638 established county courts; but during the 1790's there was a drive to expand the jurisdiction of these local courts, thereby decreasing the importance of the powerful General Court.<sup>146</sup> This movement occurred against the backdrop of Jeffersonian Republicanism then sweeping the nation. Led by Thomas Jefferson, these Republicans promoted the notion that the "revolutionary heritage needed to be reclaimed because the sovereign people remained half-shackled by a regime of privilege and hierarchy protected by law."<sup>147</sup>

Maryland Democrats shared this viewpoint and aligned themselves with the the Jeffersonian Republicans. This Democratic-Republican coalition sought to strengthen the county courts with the eventual goal of decentralization.<sup>148</sup> Those who sought judicial reform in Maryland complained that trials often were not held in the counties where most of the participants lived. Consequently, plaintiffs, defendants, witnesses and jurymen frequently were forced to make expensive and burdensome journeys to Annapolis or Easton.<sup>149</sup>

With the enactment of the Judiciary Bill of 1801, the existing system of judicial circuits remained in place, but other reforms were effected which resulted in a less centralized court system. The bill limited the criminal jurisdiction of the General Court, and raised the amount in controversy for civil cases heard in that court to four hundred dollars or more. The bill also reduced the number of justices on the Court of Appeals to three.<sup>150</sup> The Judiciary Bill of 1801 was ultimately a compromise between conservatives and reformers; although some reforms were effected, its proponents were careful that the bill should not repeal any explicit constitutional provisions concerning the General Court or Court of Appeals.<sup>151</sup>

Several attempts were made to abolish the General Court over the next few years, thereby ensuring the preeminence of the local county courts. In 1802, 1803, and 1804, bills were proposed and defeated that would have further decentralized the judiciary and strengthened democratic representation in state government.<sup>152</sup> It became clear that if the reformers were to prevail, they must capture the votes of the moderates, whose concerns with reforming the judiciary centered mainly upon traveling costs involved in a typical lawsuit.<sup>153</sup> In 1805 the General Assembly passed an act "to provide for the trial of facts in the several counties of this state, and to alter,

change and abolish, all such parts of the constitution and form of government as relate to the general and court of appeals."<sup>154</sup> The number of judicial districts was increased to six with the creation of a separate district for Baltimore and Harford counties.<sup>155</sup> A chief judge and two associate judges were appointed in each district by the Governor and the Council.<sup>156</sup> The General Court and the Court of Appeals were abolished, and a new Court of Appeals was created.<sup>157</sup> All appeals remaining on the dockets of the now defunct General Court and Court of Appeals were transferred to the new Court of Appeals.<sup>158</sup> The members of the new Court of Appeals were the six chief judges from the newly created districts, and the same judges sat on both the Western and Eastern Shores.<sup>159</sup> The reorganized Court of Appeals assumed the appellate jurisdiction of the former General Court.<sup>160</sup> The abolition of the General Court signaled a resolution of the struggle between radical reformers and those who would preserve the status quo. The citizens of Maryland benefited in the end by the increased availability of local jury trials.<sup>161</sup>

On March 1, 1816, the Court of Oyer and Terminer and Gaol Delivery was abolished. To replace it in the city, the Baltimore City Court, composed of one Chief Judge and three associate judges, was established.<sup>162</sup> This new Court was given jurisdiction over "all felonies, and other crimes, offenses and misdemeanors, and other matters arising within the city and precincts of Baltimore. . . ."<sup>163</sup> In 1847 the General Assembly, apparently responding to jurisdictional ambiguities, gave the Baltimore City Court authority over criminal matters within the City similar to the authority the County Courts exercised within their respective counties: "the provisions of any law relating to the criminal jurisdiction of the county courts of this State, shall extend to Baltimore city court, although said court be not named therein."<sup>164</sup>

*The practice of law.* The establishment of an exclusively City court reflected an expanding legal practice for City lawyers. To service its growing need for legal scholarship, Baltimore City's lawyers needed a common library. On January 8, 1841 The Library Company of the Baltimore Bar was incorporated by the General Assembly.<sup>165</sup>

The City's courtrooms were the stages for the urban dramas found in any densely populated area. Scharf recorded one of the more notorious criminal trials of the period, notable here by the dramatic contrast with contemporary courtrooms where it is not unusual to see perhaps a dozen or more attempted murders and murders on a single day's docket and comparatively little public interest. The swift justice is interesting as well.

On Tuesday, November 21st, [1843] the court-house was densely crowded to witness the prosecution of the case of the State vs. Adam Horn, alias Andrew Hellman, indicted for the murder of his wife Malinda Horn [Mr. I. Nevitt Steele prosecutor]. This important trial ended on Monday evening, November 27th. The jury, after an absence of only twenty minutes rendered a verdict of guilty of murder in the first degree. The scene in the court-room at the time

of its rendering was exciting in the highest degree; the immense throng, in their eager desire to give vent to their feelings of joy at the result, evinced their approbation in loud tokens of applause. Sentence of death was pronounced by Judge Magruder on Monday, December 4th, 1843. He was hung Friday, January 12, 1844.<sup>166</sup>

In his history of the Bar Library, Bench Historian James F. Schneider gives us this vivid snapshot of the Bar in the 1840s.

The Baltimore of 1840 was a thriving city of 100,000, in size and population the third largest city in America, following New York and Philadelphia. Her great harbor welcomed the commerce of the world in the days of steam and sail. Her location at the head of the National Road and the Baltimore and Ohio Railroad stimulated local industry by creating markets for manufactured goods.

There were then no more than two hundred lawyers practicing law in Baltimore, most of whom maintained homes and offices in the two and three-story dwellings that dotted the landscape around the Court House. They were the elite of society, for whom the great mass of people had a reverential respect, to whose leadership the majority naturally deferred. As members of such a small, closed set, all were known to the others, as former classmates, law partners, mentors and protégés, fellow church members, slaveholders and abolitionists, Whigs and Democrats, friends and adversaries on the political stump or across the trial table. They dined together, played cards together, debated each other and, on occasion, traded pistol shots on the field of honor. They were brothers in the law, in name and fact, for there was not a woman in the whole number. Together they joined in marking occasions peculiar to the profession, celebrating a new lawyer's admission to practice, or mourning the passing of departed colleagues in the cancellation of court sessions, the wearing of armbands and other badges of grief and the reading of eulogies at memorial meetings. Their lives and conduct founded a tradition that lives today in the bench and bar of Baltimore.

The practice of law was much simpler then, as was life itself. The telephone had not yet been invented, so lawyers conducted their practices face to face. The typewriter had not yet been conceived, so pleadings and other legal documents were drawn up by hand, usually by students under instruction in the office. Lawyers carried their papers in green cloth bags bound at the top by a draw-string and tied their pleadings with red ribbons. From these now-forgotten usages came the expressions "green bag" and "red tape."

In those days, the Court House was a branch of local entertainment, its various courtrooms the stages upon which dramas drawn from everyday life were acted out. Citizens often crowded the galleries to see and hear their favorite orators declaim in grandest style the causes of their clients before Judge and Jury. And from the fragments of those courtroom speeches which survive, it is clear that Judges then were far more tolerant in permitting digression from the point in controversy than they are today.

When the Library was founded, the bar was disorganized and unregulated. There were no written codes of ethics nor bar examinations; students "read law" in the offices of practicing attorneys, then were admitted to the bar upon motion before the local bench by their sponsors, who attested to their competence and integrity. There was then no Supreme Bench of Baltimore City; that judicial institution was not established until 1867 when the present State Constitution was ratified. The city and county were not then the separate political entities they are today; before the Constitution of 1851 by which the separation was effected, Baltimore City was the county seat, and the old two-story brick Court House which stood on the southwest corner of Calvert and Lexington Streets housed the county courts.<sup>167</sup>



## Constitution of 1851

In 1851, Maryland adopted a new Constitution which separated the city from Baltimore County. It also radically changed the State's judicial system, especially that of Baltimore City.<sup>168</sup> The Maryland Constitutional Convention had assembled on November 4, 1850, adjourning on May 13, 1851. When ratified, this Constitution created three new courts to replace the authority previously exercised over the city by the Baltimore City Court (criminal jurisdiction) and the Baltimore County Court (all other matters).<sup>169</sup>

The Convention had been called for a variety of reasons. At that point, the General Assembly was organized to represent Maryland's counties rather than its people. Because of this organization, each county received similar representation in the General Assembly no matter how populous.<sup>170</sup> Those who were unhappy with the Constitution of 1776 also sought to limit the ability of the General Assembly to incur debt.<sup>171</sup> The judicial branch was also an important subject of scrutiny. Reformers sought two major changes: a replacement of the appointed judiciary with an elected one and a reduction in expenditures.<sup>172</sup> Thomas F. Bowie, a convention delegate from Prince George's County, stated that judicial reform was the most important issue of the Convention and that without it the Eastern Shore and southern Maryland would never have agreed to a convention.<sup>173</sup>

The previous six state judicial districts were replaced by four judicial districts solely for the purpose of geographic representation on the reconstituted Court of Appeals. The county courts were unaffected. One member of the Court of Appeals was to be elected by the voters in each of the four judicial districts.<sup>174</sup> Interestingly, none of the sitting Court of Appeals judges chose to run; consequently, all were replaced. The Court of Appeals was now required to issue and publish opinions on each case it decided.<sup>175</sup> In forming these four districts, Baltimore County was placed in the First District along with Allegheny, Washington, Frederick, Carroll, and Harford counties.<sup>176</sup> Baltimore City alone comprised the Third District.<sup>177</sup> Baltimore City went from being essentially without representation on the Court of Appeals to having one-fourth of the seats.

The Constitution of 1851 also divided the State into eight trial court judicial circuits, marking the beginning of the present-day Circuit Courts.<sup>178</sup> Each circuit was composed of one or more counties, except Baltimore City which alone comprised the Fifth Circuit. In each circuit, except the Fifth, "one person from among those learned in the law, having been admitted into practise [sic] in this State, . . . and a resident of the judicial circuit . . .," would be elected judge of the circuit.<sup>179</sup> The individual County Courts still operated, but were staffed by the circuit court judges. The circuit courts took over all equity jurisdiction from the soon to be abolished Chancery Court.<sup>180</sup>

Because Baltimore City, the Fifth Circuit, did not have circuit courts to hear cases brought in common law or equity, the Constitution of 1851 granted Baltimore City

two new courts of its own, Court of Common Pleas and Superior Court of Baltimore City, and replaced its criminal court.<sup>181</sup>

The Court of Common Pleas was a civil court of limited jurisdiction. Its name dates back to the 1215 Magna Carta, which provided that a court be established at Westminster to hear "communia placita" or "common pleas" civil suits between the subjects of the King.<sup>182</sup> Originally, in order to sue, a writ had to be obtained from the crown's secretary, the chancellor. "In the course of time these writs crystallized into set forms and it became important for the plaintiff to bring his action within one of the set writs. Otherwise he could have no remedy."<sup>183</sup> One of those form writs, for example in a sales contract dispute, came to be called a *Declaration in Assumpsit*, reciting "For goods bargained and sold by the plaintiff to the defendant." The form answer by the defendant would be "That he was never indebted as alleged." The Baltimore Court of Common Pleas was established to:

[H]ave civil jurisdiction in all suits where the debt or damage claimed shall be over one hundred dollars, and shall not exceed five hundred dollars; and shall, also, have jurisdiction in all cases of appeal from the judgment of justices of the peace in the said city, and shall have jurisdiction in all applications for the benefit of the insolvent laws of this State, and the supervision and control of the trustees thereof.<sup>184</sup>

This court was presided over by one judge elected by the people of Baltimore City for a term of ten years<sup>185</sup> and, as noted above, exercised civil jurisdiction in all suits where the damage claimed exceeded \$100.00 but was less than \$500.00.<sup>186</sup> Appeals from the justices of the peace in Baltimore and insolvency proceedings were also to be heard by the Court of Common Pleas.<sup>187</sup>

The Superior Court of Baltimore City was established to:

[H]ave jurisdiction over all suits where the debt or damage claimed shall exceed the sum of five hundred dollars, and in case any plaintiff or plaintiffs shall recover less than the sum or value of five hundred dollars, he or they shall be allowed or adjudged to pay costs in the discretion of the court. The said court shall also have jurisdiction as a Court of Equity within the limits of the said city, and in all other civil cases which have not been heretofore assigned to the Court of Common Pleas.<sup>188</sup>

This court was presided over by one judge, elected by the people of Baltimore City to serve for a term of ten years,<sup>189</sup> and had jurisdiction over all suits where more than \$500.00 in damages were claimed. The Superior Court was also given jurisdiction as a court of equity within Baltimore, and in all other civil cases not assigned to the Court of Common Pleas.<sup>190</sup>

The third court, a newly created Criminal Court for the City of Baltimore, was authorized to "have and exercise all the jurisdiction now exercised by Baltimore City Court," meaning exclusive criminal jurisdiction within the city.<sup>191</sup> Like both the Superior Court and the Court of Common Pleas, the Criminal Court had one judge who was elected for a ten-year term by the citizens of Baltimore.<sup>192</sup> In furtherance of



the establishment of a new criminal court, the General Assembly gave the Criminal Court of Baltimore City and the Circuit Courts of Maryland exclusive jurisdiction over all criminal cases in their respective circuits.<sup>193</sup>

The salary for the judges in the Court of Common Pleas and the Superior Court was set at \$2,500.00 annually and at \$2,000.00 a year for the Judge of the Criminal Court.<sup>194</sup> Apparently in response to public opposition to the life tenure of judges, the new Constitution provided for the election of all judges.<sup>195</sup> The Constitution required all County Circuit Court judges as well as Court of Appeals judges to run for election every ten years.<sup>196</sup> Judges holding "inferior" judicial posts (Orphans Court, Justices of the Peace, and the like) were required to run even more frequently.<sup>197</sup>

The process for selecting the Judges of the Orphans Courts in the counties and Baltimore City was also addressed by the Constitution of 1851. Section 17 of Article 4 provided for an election of three citizens to that court for a term of four years.<sup>198</sup> They were to be given all of the powers vested in the Orphans Courts of Maryland at that time and paid *per diem* for the time court was in session at a rate established by the legislature.<sup>199</sup> The office of Register of Wills also changed as a result of the 1851 Constitution. Instead of being an appointed position as provided in the 1776 Constitution,<sup>200</sup> the office was now to be an elected one with a term of six years.<sup>201</sup> Vacancies in the office of the Register of Wills were no longer to be filled by a new gubernatorial appointee. Instead, the Judges of the Orphans' Court were to cover the vacancy until the next general election.<sup>202</sup>

After the Maryland Constitution of 1851 was written, but before its adoption, the General Assembly, in a separate act, abolished the Chancery Court with John Johnson serving as the state's final Chancellor.<sup>203</sup> The old statewide Court of Chancery, previously staffed by a single judge, gradually dismantled itself, with the Chancellor continuing in office for two years to dispose of the backlog of equity cases, while hearing no new cases.<sup>204</sup> Under the Constitution of 1851, the Circuit Courts for each county were granted the power to hear cases in equity; and, as mentioned, in Baltimore City equity power was given to the Superior Court for Baltimore City—the court of general jurisdiction. The Court's equity jurisdiction was bestowed in the following manner:

That the judges of the several Judicial Circuits, and the judge of the Superior Court of Baltimore City, shall each, in his respective circuit, have and exercise all the powers conferred, and discharge all the duties imposed by law upon the Chancellor of Maryland, before the adoption of the present [1851] Constitution. . . . That each of the said circuit judges shall have power and authority to grant injunctions, and to pass orders and decrees in equity, and to make orders at common law, as also to issue writs of habeas corpus, while residing or sojourning in any part of his circuit, to take effect within the same, or in any other part of such circuit.<sup>205</sup>

Recognizing the continuing growth of Baltimore City, the new Constitution also authorized the General Assembly to create additional Courts for Baltimore City as

it saw fit.<sup>206</sup> In April of 1853, therefore, the General Assembly established the first Circuit Court of Baltimore City.<sup>207</sup> This court, also staffed by a single elected judge, was given the same broad power to hear all cases in equity as the Superior Court of Baltimore City.<sup>208</sup> The new Circuit Court of Baltimore City was to have

concurrent jurisdiction with the superior court of Baltimore city in all cases in equity, in cases arising under the act to direct descents and its supplements, in cases of habeas corpus, and generally such as have heretofore been conferred on the Chancellor of this State, so far as regards the fifth judicial circuit.<sup>209</sup>

One month later, in May of 1853, the General Assembly granted to the four courts of Baltimore City and all Circuit Courts in the rest of the State, jurisdiction "over the whole State in all matters relative to habeas corpus."<sup>210</sup>

The General Assembly took a statewide approach to the issue of juvenile justice. Children between the ages of twelve and fifteen "who may be convicted of mayhem, murder in the second degree, manslaughter, assault with intent to commit murder or mayhem or of setting fire to any . . . property . . . shall be sentenced . . . in the same manner as if they were of full age."<sup>211</sup> It was further established that any court in the State having criminal jurisdiction could, at the judge's discretion, treat juveniles between the age of twelve and fifteen convicted of crimes, other than those tried as adults, or send them to "institutions under police regulations" until they reached the age of eighteen, twenty-one at the oldest, when they might then be sentenced as adults.<sup>212</sup> While the General Assembly did take into account the need for special treatment of juveniles, it was not until 1902 that the City of Baltimore had a court specifically for juvenile cases.<sup>213</sup>

## Constitution of 1864

The Civil War did not leave Maryland, particularly Baltimore City, untouched. The Constitution of 1864 was enacted in part as a result of the turmoil of the times. The War divided the population of Maryland, including members of the judiciary, with one faction favoring the North and the other urging secession. In January of 1862, Reverdy Johnson,<sup>214</sup> a well-known Maryland attorney and statesman, urged fellow Marylanders to remain with the Union at a meeting in Baltimore.<sup>215</sup> In response, Court of Appeals Chief Judge LeGrand wrote a scathing public letter to Johnson, which was published in the *Baltimore Sun*.<sup>216</sup> The "Know-Nothings" who frequently used intimidation tactics to dominate the polls succeeded in defeating LeGrand that fall.

Secession from the Union was never a realistic possibility for Maryland. Because of the location of Washington, D.C. between Maryland and Virginia, the security of the National Government depended upon Maryland, particularly Baltimore City with its large population and vital harbors, remaining loyal to the Union. National authorities kept a close watch to ensure Maryland's loyalty, including placement of troops and



*View of Baltimore Harbor from Federal Hill, Photograph circa 1861, Collection of Jacques Kelly. Nearly a century of peaceful dispute resolution in legislatures and courts would soon yield to the bloody tragedy of the Civil War. Battlements which had defended Baltimore from the British in the War of 1812 would be held by Union Troops during the conflict.*

cannon on Baltimore City's "Federal Hill." When, on November 6, 1861, Marylanders elected as Governor the Union Party candidate, Augustus W. Bradford,<sup>217</sup> it was clear that Maryland would remain in the Union.<sup>218</sup>

The Constitution of Maryland, however, continued to recognize slavery.<sup>219</sup> Therefore, a constitutional amendment was necessary for emancipation;<sup>220</sup> but by 1863, many emancipationists felt that a new constitutional convention would be preferable.<sup>221</sup> The Union Party in Maryland had, by this time, broken into two parties.<sup>222</sup> The Unconditional Union Party advocated immediate emancipation of slaves without compensation, a state constitutional convention and "complete and absolute support of the National administration."<sup>223</sup> The Conditional Union Party maintained their loyalty and desire to win the war, but condemned the Lincoln administration's aggressive war measures including the suspension of the writ of habeas corpus.<sup>224</sup> The Conditional Union Party also supported emancipation, but preferred a slower and more deliberate pace. They were willing to submit the question of a constitutional convention to the voters.<sup>225</sup> The pro-slavery Democratic Party was in a weakened state and could only field candidates on the Eastern Shore and in Southern Maryland.<sup>226</sup>

The 1863 statewide elections<sup>227</sup> took place under the long shadow of the National Government.<sup>228</sup> After the Unconditional Unionists who favored a constitutional convention entered office, the new General Assembly, whose session began on January 6, 1864, called for a constitutional convention. By February 8, the measure was adopted,

and a popular election was scheduled for April 6 to determine if the people of Maryland wanted a constitutional convention.<sup>229</sup> The proposed convention received strong support and was scheduled to begin on April 27, 1864. There were 96 delegates elected to the convention: 61 Union Party members from northern and western counties, Baltimore City, Talbot, Caroline and Worcester Counties, and 35 Democrats exclusively from the Pro-Slavery counties of Kent, Queen Anne's, Dorchester, Somerset, Anne Arundel, Montgomery, Prince George's, Charles, Calvert, and St. Mary's.<sup>230</sup> The focus of the constitutional convention was on the Civil War and slavery.<sup>231</sup>

Although short-lived<sup>232</sup> and written in an environment not conducive to careful reflection on reorganization of the judiciary,<sup>233</sup> the 1864 Constitution introduced changes in the judicial branch which survived the Constitution itself.<sup>234</sup> The number of judicial circuits was increased from five to thirteen, and Baltimore City became the 13th circuit.<sup>235</sup> The four city courts, the Superior Court, the Court of Common Pleas, the Circuit Court, and the Criminal Court, remained intact with only minor changes.<sup>236</sup> The maximum jurisdictional amount for the Court of Common Pleas rose from \$500 to \$1,000,<sup>237</sup> and the minimum jurisdictional amount for the Superior Court of Baltimore was raised from \$500 to \$1,000.<sup>238</sup> Additionally, the Superior Court was granted power to hear all appeals from the Commissioners for opening streets.<sup>239</sup> The Circuit Court of Baltimore City was constitutionalized,<sup>240</sup> but its jurisdiction was modified to remove *habeas corpus* cases.<sup>241</sup>

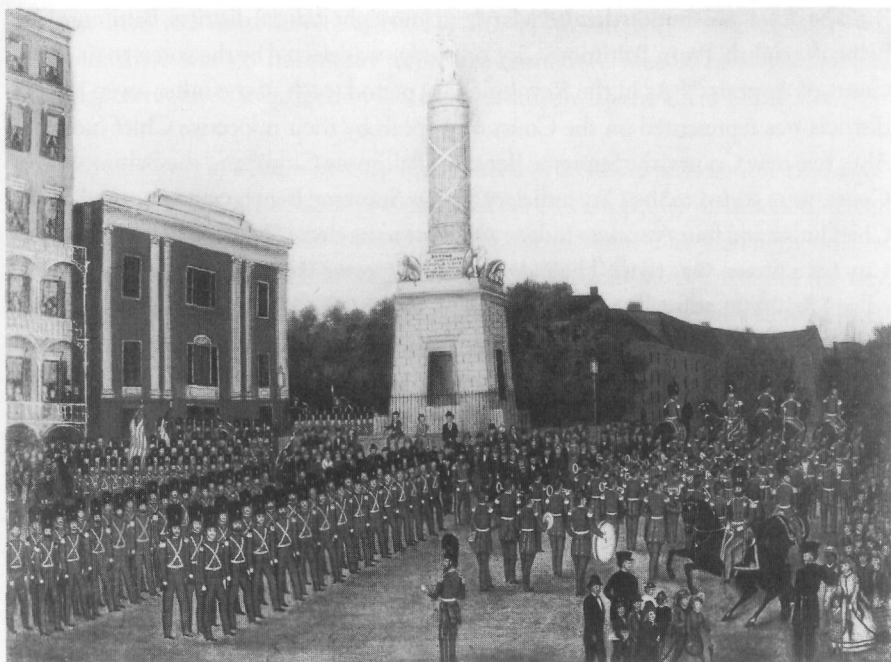
Another change initiated by the 1864 charter affected the Orphans Court. The terms of office for the three elected judges were to be staggered initially, with one having a term of two years, another for four years, and the last to hold office for six years. At subsequent elections, one judge would be selected for a term of six years. The salary for judges of the Orphans Court was no longer subject to the *per diem* payment restriction contained in the 1851 Constitution.<sup>242</sup> Instead, the salary was to be determined by the General Assembly.<sup>243</sup> The Court of Appeals was to consist of five judges (one from each of five judicial districts) who were elected by the state as a whole (rather than individual districts).<sup>244</sup>

## The Current Constitution of 1867

### *The Call for a New Constitution*

At war's end, Baltimoreans and all other Marylanders who had joined the confederacy<sup>245</sup> returned home to a chilly reception.<sup>246</sup> Those who had remained at home but displayed any sympathy to the rebel cause were also to be denied the vote.<sup>247</sup> The Democratic party claimed that between half and two-thirds of all Marylanders were disenfranchised.<sup>248</sup>

Even discounting for partisan excess, and accepting the legitimacy of withholding the vote from known "traitors," an arguably excessive number<sup>249</sup> of Maryland



*Fifth Regiment Review in Baltimore's Monument Square (Baltimore City Courthouse is left of the Monument), Ink and gauche drawing circa 1870, Maryland Historical Society. The classical elements on the exterior of the Court House depict the early and strong classical aesthetic for public buildings in the United States. The Battle Monument site was originally proposed for Robert Mills' monument to George Washington.*

*However, the City Fathers were skeptical that Mills' ambitious design would stand. Consequently, they required that it be built beginning in 1815 on a hill north of the developed area of Baltimore. Their premise was that if the monument fell, it would likely injure only livestock. Shortly after the Washington Monument's completion in 1829, the square around it was designed and built by more trusting souls.*

residents were denied the vote.<sup>250</sup> When legal remedy to this disenfranchisement proved ineffective,<sup>251</sup> the Democrats sought a political solution, which they eventually found.<sup>252</sup> The November 6, 1866,<sup>253</sup> election results were overwhelmingly Democratic, winning the office of State Comptroller and two-thirds majorities in both houses of the General Assembly.<sup>254</sup> The General Assembly undertook immediately to remove the most onerous provisions of the 1864 Constitution<sup>255</sup> and called for a new Constitutional Convention.<sup>256</sup> The voters approved the Convention<sup>257</sup> and because the Republican party refused to nominate candidates,<sup>258</sup> elected all 118 delegates from the Conservative-Democratic party.<sup>259</sup>

### ***The Changes in the New Constitution***

The 1867 Constitution contained many changes, including deleting the loyalty oaths that had disenfranchised Democratic voters,<sup>260</sup> strengthening the executive branch,<sup>261</sup> and reapportioning the legislature.<sup>262</sup> Many changes were also made in the judicial branch.



The new Constitution divided Maryland into eight judicial districts, Baltimore City being the eighth. From Baltimore City, one judge was elected by the voters to sit on the Court of Appeals.<sup>263</sup> As in the Revolutionary period, each of the other seven judicial districts was represented on the Court of Appeals by their respective Chief Judges.<sup>264</sup> Also, two new Courts, the Supreme Bench of Baltimore City<sup>265</sup> and the Baltimore City Court, were added to the City judiciary.<sup>266</sup> The Supreme Bench was comprised of one Chief Judge and four Associate Judges who were to be elected by the voters of Baltimore City for a fifteen year term. The judges of the Supreme Bench were to be compensated at \$3,500.00 annually with authority granted to the Mayor and City Council to increase that salary by \$500.00 each year.<sup>267</sup> The duty of this Court was to manage the City's judiciary: "to provide for the holding of each of the [Baltimore] Courts by assignment of one, or more of their number to each of the said Courts . . ."<sup>268</sup> There was provision for the holding of "general Terms" (by not less than three judges), and for "all needful rules and regulations" for Baltimore Courts.<sup>269</sup> Instead of being elected to a specific city court, judges were elected generally to the Supreme Bench of Baltimore City and assigned themselves to the five city courts (Superior Court, Court of Common Pleas, Circuit Court, Baltimore City Court, and the Criminal Court).<sup>270</sup>

In addition to assigning judge to the five courts, the Supreme Bench was granted "jurisdiction to hear and determine all motions for a new trial . . . and all motions in arrest of judgment, or upon any matters of law. . . ."<sup>271</sup> It had the responsibility of disciplining Baltimore attorneys, selecting grand juries, and prescribing the local rules of practice.<sup>272</sup> The 1867 Constitution further stated that there would be no right of appeal to the Supreme Bench from a Baltimore City Court's review of a decision rendered by a Justice of the Peace.<sup>273</sup> Under the terms of the new Constitution, the Baltimore City Court, the Superior Court of Baltimore City and the Court of Common Pleas, were each given:

concurrent jurisdiction in all civil common law cases, and concurrently all the jurisdiction which the Superior Court of Baltimore City and the Court of Common Pleas [had], except jurisdiction in Equity, and except in application for the benefit of the Insolvent Laws of Maryland, and in cases of Appeal from judgments of Justices of the Peace . . . whether civil or criminal, or arising under the ordinances of the Mayor and City Council of Baltimore, of all of which appeal cases the Baltimore City Court shall have exclusive jurisdiction . . .<sup>274</sup>

### ***Baltimore City Courts Under the Constitution of 1867***

The five courts and their jurisdictions were, therefore, as follows:

*The Superior Court for Baltimore City* Civil common law cases were heard by this court, that was divested of its equity jurisdiction by the Constitution of 1867.<sup>275</sup> The Superior Court for Baltimore City shared concurrent jurisdiction with the Court of Common Pleas and the Baltimore City Court. In cases other than contract, the



amount involved must have exceeded \$100. However, where title to land was involved, there was no minimum monetary limitation. Deeds, conveyances, and other papers required to be filed by law were recorded with the Clerk of this Court.<sup>276</sup>

*The Circuit Court of Baltimore City* This court had exclusive jurisdiction in all equity cases. Prior to 1867 the Superior Court had concurrent equity jurisdiction. Much of this authority involved divorce and annulment cases. The Circuit Court of Baltimore City was given exclusive jurisdiction over equity cases arising in the city, including what came to be known as family law, but was specifically denied jurisdiction in applications for the writ of habeas corpus in cases of persons charged with criminal offenses.<sup>277</sup>

*Baltimore City Court* The Baltimore City Court had jurisdiction in all civil common law cases concurrently with the Superior Court and the Court of Common Pleas. This court had exclusive jurisdiction in cases of appeals from justices of the peace (later renamed Magistrate Courts). In 1908 this Baltimore City Court was given appellate jurisdiction over condemnation cases and the power to review decisions made by the Appeal Tax Court that existed at that time.<sup>278</sup> The Appeal Tax Court was created in 1874 by an act of the General Assembly of Maryland to deal with all matters regarding revenue and taxes in Baltimore City. The three Judges empowered to sit on this board were to meet "from time to time for the purpose of hearing appeals, and making transfers, and correcting the accounts of assessable property changed to tax payers, and the assessment thereof."<sup>279</sup> Furthermore, the Appeal Tax Court had jurisdiction "[w]hensoever any person shall make application for an allowance or deduction on account of the sale, transfer, alienation, loss or . . . payment of any public or private security for money."<sup>280</sup>

*The Court of Common Pleas*<sup>281</sup> This court had jurisdiction in all civil common law cases concurrently with the Superior Court and the Baltimore City Court. The Court of Common Pleas also had exclusive jurisdiction over insolvency cases. In addition, it issued marriage and other licenses.

*The Criminal Court of Baltimore* Exclusive criminal jurisdiction was granted to this court.<sup>282</sup> With the exception of those cases appealed to the Baltimore City Court from Justices of the Peace,<sup>283</sup> the Criminal Court of Baltimore had exclusive jurisdiction over criminal all cases.

### *Additional Changes in the Judiciary of Baltimore City*

The Constitution of 1867 also granted the General Assembly the power to create additional courts in the Supreme Bench of Baltimore City.<sup>284</sup> The General Assembly



*The Law offices of Colonel Charles Marshall in the Glenn Building, 214 St. Paul Street, on March 24, 1884. Colonel Marshall is seated at the left.*

did not exercise this authority until 1888 when it created Circuit Court No. 2 of Baltimore City. This made a total of six courts for the Supreme Bench of Baltimore City, where the population was now approximately 500,000.<sup>285</sup> Circuit Court No. 2 had concurrent equity jurisdiction with the Circuit Court of Baltimore City. Eventually, however, hospital liens were filed exclusively in the Circuit Court, and paternity cases were heard only in the Circuit Court No. 2.<sup>286</sup> Moreover, the General Assembly authorized the addition of one judicial seat to the Supreme Bench in 1888 to be elected by city voters.<sup>287</sup>

In 1892, the first law regarding adoption was enacted by the legislature.<sup>288</sup> It provided that adoption petitions were to be filed in the circuit courts and handled as equity procedures. Because relatives usually assumed care over children whose parents had died, there were no formal adoption procedures in Maryland prior to this time.<sup>289</sup>

In 1892, the Constitution was amended to allow the General Assembly to create additional judicial positions for Baltimore City (not additional courts).<sup>290</sup> As the City's case load grew, so did the need for judges on the Supreme Bench. Accordingly, a judge was added in 1894, 1896, 1897, and in 1907.<sup>291</sup> In addition the Supreme Bench itself created a new division of the Criminal Court, Criminal Court No. 2, in 1897.<sup>292</sup>

As the City was enjoying a period of extraordinary population growth during the latter half of the nineteenth century,<sup>293</sup> there was an accompanying increase in case-loads, thus the bar was experiencing growing pains of its own. Up until the latter part



*View of the Battle Monument and recently completed Courthouse, Photograph—1900, Maryland Historical Society. The fluted columns of the Courthouse are the largest monolithic stone columns in the United States.*

of the century, the practice of law in Maryland was informal. Each county had its own society of lawyers, and the county courthouse often formed its nucleus. Lawyers entered practice upon oral examination by a local judge.<sup>294</sup> There was little access to the courts by the indigent, and a financially successful attorney's clientele consisted largely of banks, railroads, and trust companies.<sup>295</sup>

On December 23, 1879, an invitation was extended to City practitioners. It read: "At a meeting of a number of the members of the Bar of Baltimore City held June 7, 1879, it was resolved to undertake the formation of a Bar Association." This invitation, to a meeting at the Maryland Historical Society on December 26, 1879, led to the establishment of The Bar Association of Baltimore City on January 15, 1880 and the election of Severn Teackle Wallis as its first president.<sup>296</sup>

A popular notion among the public that attorneys lacked a sense of ethics was in part responsible for a reform movement that resulted in the organization of attorneys into a statewide association. Lawyers in Maryland were among the last to have a state bar association of their own. Only on August 28, 1896, did the Maryland State Bar Association come into existence. At a meeting in Washington County, the new association quickly adopted a Constitution and by-laws, and elected as its first President the Hon. James McSherry, Chief Judge of the Court of Appeals of Maryland.<sup>297</sup>

## The Twentieth Century

### *The O'Connor Era And Beyond*

By 1900, the population of the City had grown to 508,957 people and the judicial apparatus of the 18th and 19th centuries was ill suited to either a major City or the developing State of Maryland.<sup>298</sup> With the trauma of the First World War behind them, city and state bar leaders urged needed reforms of the judiciary. Consequently, during the late 1930's through the early 1940's, two Commissions were appointed by Governor Herbert R. O'Connor to assess concerns about the judicial system. The first was a Commission on the Inferior Courts of the State, organized to study the general dissatisfaction among the public with regard to the "Justice of the Peace" system.<sup>299</sup> The other, formed in 1941, became known as the Bond Commission, named for its chairman, Chief Judge Carroll T. Bond of the Court of Appeals. The formation of this Commission followed a request from the Maryland State Bar Association, prompted by dissatisfaction with the manner in which judges for the Court of Appeals were selected. Under the terms of the Constitution of 1867, the Court of Appeals was comprised of the seven Chief Judges of the Circuit Courts, plus one elected from Baltimore City.<sup>300</sup> The result of this selection plan was that judges performed appellate as well as *nisi prius* duties, a situation that "[m]any attorneys, and some judges, thought . . . was untenable."<sup>301</sup>

The Bond Commission recommended, among other changes, a reduction in the number of judges on the Court of Appeals.<sup>302</sup> The General Assembly in 1943 implemented this suggestion, causing the Court of Appeals to consist of 5 judges, one popularly elected from each of three appellate circuits and two from Baltimore City, the fourth appellate circuit.<sup>303</sup> In 1960, a constitutional amendment increased the number of judges to seven.<sup>304</sup> The judges were to be appointed by the governor and to



*View of Light Street, August 16, 1916, Photograph, Collection of Jacques Kelly. Horses and new fangled motor cars made uncomfortable bedfellows on Baltimore's bustling streets.*

hold office until the next general election, when the voting public would decide whether or not to retain them. The Chief Judge of the Court of Appeals was to be selected by the Governor.<sup>305</sup> The number of judges on the Court of Appeals remained at seven, one from each of the first five appellate circuits and two from the Sixth Appellate Circuit, Baltimore City, until 1994, when another constitutional amendment and implementing legislation “reapportioned” the circuit representation.<sup>306</sup> The number of appellate circuits was increased to seven, and each circuit, including Baltimore City, would be represented by one judge.<sup>307</sup> Baltimore City lost its second geographic seat.

On September 1, 1941 one of the most significant developments in the history of litigation practice occurred, discovery reform. Former Chief Judge of the Supreme Bench of Baltimore City Emory H. Niles and Baltimorean Frederick W. Invernizzi, the first Director of the Administrative Office of the Courts, Niles as a member of the Rules Committee and Invernizzi as its Reporter, are credited as the fathers of this reform. Christopher H. Foreman, Esq. former law clerk to Chief Judge Niles commented:

One of the few criticisms Sir William Blackstone allowed himself to level at the common law was its lack of any effective means of discovery. Such discovery as could be had was available only in equity, and then only to a very limited extent. The procedure was cumbersome, time consuming, expensive and often fruitless.

The ancient limitations upon discovery which afflicted the common law jurisprudence in Blackstone's day, passed as an hereditary procedural ailment into the jurisprudence of Maryland, and remained in its system—with minor and unimportant mutations—until 1941, when the Deposition and Discovery Rules were first adopted.<sup>308</sup>



Legal scholars heralded this change:

"When its new Rules of Practice and Procedure went into effect on September 1, 1941, Maryland joined the select list of states enjoying the benefits of the most liberal and flexible discovery system in operation anywhere. Like the Federal Rules of Civil Procedure, which entered their fourth year of service on September 16, the Maryland rules have incorporated the various devices for discovery which have proved most useful and effective in actual operations in . . . this country and England.<sup>309</sup>

Five decades later the reformed discovery system remains with us, although criticized by some as a tool for delay.<sup>310</sup>

In the following decades more changes occurred in the appellate system. The Court of Special Appeals was originally established in 1966 to hear only criminal appeals but was later authorized to hear all but a few appeals (such as death penalty cases), which converted the jurisdiction of the Court of Appeals to a *certiorari* court. The Court of Special Appeals upon its creation consisted of five judges who were elected for fifteen year terms.<sup>311</sup> In 1960, 47% of all Marylanders resided in Baltimore City, and this was reflected in the two seats allocated to the Sixth Appellate Judicial Circuit on the Court of Special Appeals.<sup>312</sup> Four more judges were added to the court in 1970; moreover, the court was given jurisdiction in civil negligence actions including motor torts and workers' compensation.<sup>313</sup> Membership was increased to ten in 1972,<sup>314</sup> and jurisdiction was again enlarged to include equity, estate, and zoning issues. Two more judges were added in 1974 to be elected from the state at large, for a total of twelve judges.<sup>315</sup> The court in 1977 was given the power to hear appeals of any reviewable judgment, order, or decree of an orphans' court or circuit court, excluding capital punishment cases. The court's jurisdiction was also increased to include review of post-conviction, habeas corpus matters involving denial of or excessive bail, and inmate grievances.<sup>316</sup> The act of 1977 reduced the term of office to ten years and added another member-at-large to the court. Today the membership of the Court of Special Appeals remains at thirteen judges<sup>317</sup> who sit in panels of not less than three.<sup>318</sup> In 1994, the General Assembly, as it did with the Court of Appeals, reapportioned the circuit representation on this appellate court to account for statewide population shifts. Baltimore City is now entitled to one geographical seat on this court, rather than the two it had previously enjoyed.<sup>319</sup>

In 1971 the General Assembly granted the Criminal Court of Baltimore jurisdiction to hear all traffic and criminal appeals permitted by law from the District Court; the Baltimore City Court had appellate jurisdiction over all civil cases arising out of the People's Court and District Court.<sup>320</sup>

The growth of the City judiciary during the twentieth century is reflected in the increasing City budget appropriations to the Supreme Bench and later, the Circuit Court for Baltimore City.





*View of young Oriole Fans in Memorial Stadium, Photograph circa 1956, Collection of Jacques Kelly. The racial integration shown in this picture perhaps overstates the quality of race relations at the time. Nevertheless, it is heartening to see an inclusive cross-section of Baltimore's youth enjoying the national pastime together.*

### ***Selected Appropriations For Baltimore City Supreme Bench/Circuit Court***

1896	\$ 11,300
1900	\$201,879
1916	\$311,428
1936	\$580,737
1956	\$1.5 MILLION
1976	\$4.6 MILLION
1996	\$7.7 MILLION
1998	\$8.5 MILLION (REQUESTED) <sup>321</sup>

### ***Constitutional Convention of 1967-68***

When the U.S. Supreme Court mandated a reorganization of the Maryland General Assembly based on the principle "one man, one vote,"<sup>322</sup> Governor J. Millard Tawes believed that the time was right for a new constitutional convention. When this suggestion was rebuffed by the legislature,<sup>323</sup> Tawes appointed a 27-member study committee.<sup>324</sup> That commission agreed that constitutional revision was necessary and produced a draft constitution. When the matter of calling for a constitutional convention was before the voters on September 13, 1966,<sup>325</sup> the voters responded in favor of a convention. Delegates to this convention were elected in a special election on June

**KEEP OUR SEVEN SITTING JUDGES**

**HILARY D. CAPLAN**

**KATHLEEN O'FERRALL FRIEDMAN**

**CLIFTON GORDY**

**MABEL HOUZE HUBBARD**

**DAVID B. MITCHELL**

**DAVID ROSS**

**MARVIN B. STEINBERG**

## VOTE FOR ALL SEVEN SITTING JUDGES

By Authority of Lewis A. Noonberg, Treasurer

*Political Campaign Poster for the Sitting Judges from November, 1986. In this instance all of the sitting judges were elected. In other elections, sitting judges have been defeated in favor of self-filed candidates. Elimination of the elective process remains a hotly debated Maryland constitutional issue.*

13, 1967,<sup>326</sup> and the convention convened in the House of Delegates Chamber in the State House on September 12, 1967.<sup>327</sup>

The Convention recommended a complete revision of the 1867 constitution, including a new organization, a new system of numbering sections, and modernizing the language of the document.<sup>328</sup> The substantive changes recommended were numerous as well.<sup>329</sup> Proposed changes in the legislature included single member leg-

islative districts<sup>330</sup> and increasing the length of the legislative session.<sup>331</sup> The office of the Governor was strengthened by the proposed constitution. Executive departments were to be limited, and the Governor was given the power to institute reorganization of the executive branch.<sup>332</sup> The Governor's appointment power was to be expanded to cover more offices.<sup>333</sup> The Governor was to be given a majority of the votes on the reconstituted Board of Public Works, now to be known as the "Board of Review."<sup>334</sup> The Comptroller's office was retained but severely limited.<sup>335</sup> An office of Lieutenant Governor was also proposed.<sup>336</sup>

The proposed changes in the judicial branch, however, were perhaps the most far-reaching proposals of the 1967–68 Convention. The judiciary was to be reorganized into a unified system of four levels: the Court of Appeals, the Intermediate Appellate Court, the Superior Court, and the District Court.<sup>337</sup> It was also proposed that competitive popular election of judges be ended and that a judicial nominating commission nominate from three to five eligible candidates for each vacancy. The Governor would then appoint one person from the list of nominees.<sup>338</sup>

In one of the most politically controversial changes proposed, sheriffs, registers of wills and clerks of court were to be removed from the Constitution. These proposals and a few others presented a threat to strong City political organizations which were, to a significant extent, housed in various elected clerks' offices.<sup>339</sup> Other changes proposed included increased independence for local governments,<sup>340</sup> authorization of inter-county regional compacts,<sup>341</sup> increasing suffrage,<sup>342</sup> and a redrafted Declaration of Rights.<sup>343</sup> After all the efforts of the delegates to the Constitutional Convention of 1967–68, the outcome was described as:

Supported strongly by all but a handful of convention delegates, it was endorsed by all living governors, the highest judges, the legislative leaders, party luminaries, the captains of industry, the leaders of labor, the mass media of Baltimore and Washington, unlimited numbers of do-gooders, and various itinerant experts from out of state. Opposition came from a rag-tag band of the pitiful elite—courthouse gangs whose jobs had been excised from constitutional status, the know-nothings of the radical right, a few opportunistic politicians, selective puritans who took an instant dislike to a single provision—and a majority of the voters who turned out on May 14 [1968].<sup>344</sup>

It can fairly be said, however, that although the proposed Constitution was defeated, the labors of the convention delegates were not wasted. A large number of their proposals have since been adopted and are now a part of Maryland's constitution although one, unification of the Circuit Courts, continues to meet resistance, notably by many Circuit Court judges who express concerns over a loss of autonomy that they believe has served them well in their relationships with their local governments and citizens.

The demise of the proposed constitution left intact the multifaced 1867 structure of the Supreme Bench of Baltimore City. A question that has intrigued judi-

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AFTER THE CEREMONY—Judge Edwin Harlan (robed) is the center of felicitations after being sworn in as a judge of the Supreme Bench. At the extreme left is City Council-

man Richard D. Byrd, behind Mrs. Harlan and Kathy Harlan. Also shown in the photograph are Mayor D'Alesandro and, at the extreme right, James Pollack, political figure.

*Judge Edwin Harlan after Swearing In as Judge of the Supreme Bench of Baltimore City, with Mayor D'Alesandro and James Pollack in the background. Photograph – November 22, 1956, Archives of The Sunpapers. Pollack was a political powerbroker of his time; his proximity to judicial investitures depicts the influence he wielded in judicial appointments.*

cial historians is why Baltimore's senior trial court grew by adding new courts rather than, as in Maryland's counties, adding judges to a single circuit court. Although no scholarly analysis has been found on the subject, anyone familiar with politics in Baltimore City can safely conjecture as to at least one of the reasons.<sup>345</sup> Speaking generally and somewhat superficially, the state's more rural counties had single political leaders such as the Clagetts in Prince George County and the Lees in Montgomery. However, the politics of large cities in the United States were energized by organized clubs under strong leaders. Particularly in cities with large ethnic populations, social and political clubs, church groups, and like organizations gave a collective voice to particular needs and grievances of the ethnic populations who tended to live together, such as the Irish in the City's 10th Ward. This was particularly so during the industrializing period before the administrations of Franklin

D. Roosevelt, when there was virtually no centralized economic safety net for the disadvantaged. Political leaders were a source of jobs, food, and other "favors," including happy endings to legal troubles. Courthouses were the political hub of the City. "Almost every man who subsequently aspired to be mayor of Baltimore or governor of Maryland in the first half of the twentieth century served a portion of his apprenticeship in the courthouse." The elected Clerk of the Court was an influential politician and before the days of Civil Service and merit systems, a source of patronage, either alone or in cooperation with other political leaders to whom they may have owed some political allegiance or gratitude. In Baltimore City there were a variety of such political organizations, and there were coalitions under monolithic political leaders in the early 20th century. William ("Willie") Curran was one of them.<sup>346</sup> Curran's 1951 obituary noted his political rivalry with Mayor Howard W. Jackson: "Mr. Jackson batted down all the jobs in the City Hall for his supporters while Mr. Curran squeezed his fanciers into the innumerable political nooks and crannies which fill the Courthouse." He was reported to have "between 3,000 and 4,000 workers . . . shock troops" at his command. "At the word of his death, judges in the courthouse stopped all judicial proceedings to pay tribute to him." Curran was the last City-wide "boss" and on his passing sectional leaders and organizations again took hold and claimed their shares of the courthouse political spoils.<sup>347</sup>

Historically, the most powerful of the 1867 courts was the Superior Court which had multiple responsibilities, notably recording and indexing land transactions, in addition to managing large civil trial caseloads. One of its deputy clerks became clerk of the Supreme Bench. The Court of Common Pleas issued business and marriage licenses. In the middle of the twentieth century, before the 1983 establishment of a unified circuit court for Baltimore City with a single elected clerk, the six City court clerks had friendly relationships with sectional political leaders such as Pollack and Kovens in the northwest; Shaughnessy, Curran, Ricciuti, Coggins and Gallagher in the northeast; Macht, Pruchta and Burns in the central east city; the Stonewall Jackson Democratic Club, Carrick, McGuirk and Della-Wyatt in the southwest; and Hofferbert, D'Alesandro, and Bertorelli in the southeast, all of whom maintained a kind of unwritten concordat with respect to courthouse patronage. Sometimes the *pax politica* was breached, as in 1974 when the Pollack organization tried unsuccessfully to defeat Lawrence A. Murphy, Clerk of the Criminal Court.<sup>348</sup>

As the African-American population in Baltimore City grew,<sup>349</sup> so did its political organizations that claimed a first courthouse political victory in Paul L. Chester's defeat of Joseph C. Dersch as Clerk of the Court of Common Pleas in 1970. Black organizations under popular leaders such as Senators Clarence M. Mitchell, Jr., Verda F. Welcome, and Clarence W. Blount in the west; former Senator, and later Council Member Robert L. Douglass and Clarence "Du" Burns, first Black Mayor of



Baltimore City,<sup>350</sup> in the central east neighborhoods; Harry A. Cole in the northwest who, as a Republican, broke the Pollack hold on the 4th District's State Senate seat in 1954, thanks in large part to the political organization of Black women by Victorine Q. Adams, are among the most prominent.<sup>351</sup>

Other changes followed. Perhaps seeing the political handwriting on the courthouse walls, the "White" organizations decided to join the trend towards eliminating the patronage system in the courthouse (some "Black" organizations called "foul,"<sup>352</sup> that rules of the patronage game were being changed as they were coming into power). They eventually acquiesced in the merger of all of the various Supreme Bench courts into the single Circuit Court for Baltimore City, the first elected Clerk of which was African-American Sandra E. Banks, who had previously won election as Clerk of the Court of Common Pleas in 1978. The beginning of the end of the traditional patronage system began with the personnel of the Criminal Court of Baltimore in the 1970s and concluded when the Judicial Personnel System was established in 1990. That system placed the then 1,130 court employees throughout the state under the administrative authority of the Chief Judge of the Court of Appeals, who would thereafter propose salaries and benefits in his annual budget request.<sup>353</sup>

### *The Juvenile Court*

Maryland had historically placed juvenile jurisdiction in the various criminal courts of the State,<sup>354</sup> but in 1902 the General Assembly enabled the Governor to appoint "from the city of Baltimore at large an additional justice of the peace . . . known as 'The Magistrate for Juvenile Causes,' who shall be a member of the bar of the Supreme Bench of Baltimore City."<sup>355</sup> One of those Magistrate Judges was Thomas J.S. Waxter, Sr., (1930-1935) father of current Circuit Court Judge Thomas J.S. Waxter, Jr. Baltimore City thus had a separate court for juvenile offenders. The office of Magistrate for Juvenile Causes in Baltimore, however, was abolished by the legislature in 1943.<sup>356</sup> At that time, jurisdiction in juvenile causes was given to the Supreme Bench of Baltimore City, and one judge of the Supreme Bench was assigned to exercise that jurisdiction:

In addition to the jurisdiction now possessed and exercised by the Circuit Court of Baltimore City, said Court shall have jurisdiction in juvenile causes as hereinafter defined. The Supreme Bench of Baltimore City shall assign a judge of said Bench to exercise such jurisdiction. It is considered basic to the operation of this sub-title that the Judge so assigned need not be subject to rotation.<sup>357</sup>

The Juvenile Court Judge was to recommend a Master for appointment by the Supreme Bench. Prior to 1967 there were two masters of the Juvenile Court. After the 1967 U.S. Supreme Court decision, *In re Gault*,<sup>358</sup> there was a need for a third master because of the increased involvement of attorneys in juvenile cases. U. Theodore Hayes, the first Black ever to so serve the Supreme Bench, was elected to fill the new master position.

In 1970 the Fourth Circuit decided the case of *Long v. Robinson*,<sup>359</sup> which declared unconstitutional local and state law fixing a juvenile age limit of 16 years only in Baltimore City, the statewide age being 18. As a result, the volume of cases increased, and four additional juvenile masters were added, bringing the total number of Juvenile Masters to seven.<sup>360</sup>

Judge Robert I. H. Hammerman, who had been designated as the permanent judge of the Juvenile Court in 1967 and served in that capacity for eight years, instituted the policy that all members of the Baltimore City bar would be eligible for appointment to represent one indigent juvenile per year in the Juvenile Court. With the birth of the Public Defender's office in 1970 however, came the demise of that *pro bono* bar in the Juvenile Court. Judge Hammerman ended the practice of placing chronic school truants (Children In Need of Supervision or CINS) in training schools, alongside delinquent children and advocated vocational and academic programs suitable to the differing needs of the children in state custody.<sup>361</sup>

In 1974 the practice of permanently assigning judges to the Juvenile Court ended, and these judges joined the normal judicial rotation on the Supreme Bench of Baltimore City.<sup>362</sup> Judges were thereafter rotated into Juvenile on a two year basis, although this practice was later modified as well because of the increasing strain of that responsibility. In 1984 Judge David B. Mitchell was designated as the presiding judge of the Juvenile Court and distinguished himself there for eleven years. Because of the volume of cases (30,875 cases were pending in the City in December 1996<sup>363</sup>), the Juvenile Court has become a master centered court.<sup>364</sup> In 1997, two judges and eight full-time masters were assigned to the juvenile docket, and the Juvenile Court had both a chief clerk and a full time administrator.<sup>365</sup>

During Judge Hammerman's tenure as judge of the Juvenile Court, delinquency cases predominated.<sup>366</sup> Dependency cases involving Children In Need of Assistance (CINA) comprised a small portion of the juvenile docket. Because of congressional legislation passed in the late 1970's to address the problem of "foster care drift," the court became responsible for conducting periodic reviews of all children in foster care.<sup>367</sup> A special master was hired in 1982 to conduct hearings on all children in foster care. Because of the increase in CINA matters, a judge and two masters now devote full time to this portion of the juvenile docket.<sup>368</sup> Although chronic truancy continues to be a major problem,<sup>369</sup> the number of CINS cases has decreased dramatically because of recent legislative changes which caused a significant decrease in the courts' involvement with ungovernable children.

The Juvenile Court continues to evolve to address more fully the changing needs of the juvenile population. The court has instituted an assessment unit for drug-involved children and parents. A Court Appointed Special Advocates Program (CASA) works closely with dependent children. The Office of the Public Defender and the State's Attorney's Office have together instituted The Dyslexic



*View of Harborplace, Pratt Street Pavilion, August 10, 1984, Photograph, Collection of Jacques Kelly. James Rouse's vision of the city center as a marketplace where people meet to trade goods and conversation brought new vigor to the central city here and across the United States. Shortly after Harborplace opened, it was difficult to find anyone who had opposed the development in favor of a park.*

Society to aid in early identification of learning-disabled first offenders and to offer counseling and tutoring with the aid of tutors from local colleges. Restoration of the children's waiting room and the establishment of the First Book reading project have been possible because of the generosity of such groups as the Junior League, the Alliance of Black Women Attorneys, and the Young Lawyers of the Baltimore City and American Bar Associations.<sup>370</sup> A Juvenile Reading Project, UPLIFT, is in place to encourage reading by juveniles. In the near future, a Juvenile Justice Center for Baltimore City, an initiative of Judge Mitchell, in collaboration with Judges Kaplan and current Juvenile Judges Martin P. Welch and David W. Young, and with the support of Delegate Howard "Pete" Rawlings, Senator Barbara Hoffman and other legislators, is expected to open on Hillen Street near the prison complex. It will contain modern courtrooms, detention facilities for 144 juveniles, ages 11 to 17 pending trial or arraignment, and space for important ancillary services. Although this building cannot reach the root causes of juvenile crime, it is expected to facilitate the City's judicial response to it.

### ***Continual Growth and Change***

The recent history of the City judiciary has been marked by three momentous changes: first, a dramatic increase in the number of judges; second, the centralization of administrative authority in the Court of Appeals and its chief judge; and third, the replacement of the one hundred and thirteen years old Supreme Bench and its multiple free-standing courts with a unified Circuit Court for Baltimore City.

***An Expanding Bench*** Although the population of the City has declined over the past four decades, the City Court has remained the principal tribunal for several state agency administrative appeals, such as those involving the Insurance Commissioner, voluminous criminal and juvenile dockets, attendant post convictions and habeas corpus petitions, mass tort trials, and the personal aftershocks of dysfunctional families. Consequently its caseload has risen, despite the population decline; and the Bench has expanded to keep pace. Two judges were added in 1955,<sup>371</sup> and two more in 1959.<sup>372</sup> During the decade of the 1950's, the population of Baltimore City declined from an all time high of 949,708 in 1950 to 939,024 in 1960.<sup>373</sup> Although the population continued to decline in the '60's, caseloads were on the increase. In 1967, one more judge was added to the Supreme Bench in an effort to cover the City's increasingly large dockets,<sup>374</sup> and an additional four judges were added in 1968.<sup>375</sup> By 1970, the City population stood at 905,787.<sup>376</sup> In 1973, the Supreme Bench was increased to twenty-one judges,<sup>377</sup> and in 1979, to twenty-three.<sup>378</sup> By 1980, the City's population had again decreased, to 786,741.<sup>379</sup> Meanwhile, the number of judges on the Circuit Court for Baltimore City was increased to twenty-four in 1988.<sup>380</sup> During the 1990s, there have been further increases in the number of judges, resulting in a total of twenty-five in 1990,<sup>381</sup> twenty-six in 1993,<sup>382</sup> twenty-eight in 1996, and thirty in 1997.<sup>383</sup> Between 1990 and 1996, the population of Baltimore City declined further, from 736,014 to an estimated 675,401.<sup>384</sup> However, with a complement of thirty judges, the Circuit Court remains the largest in Maryland. In November 1996, there were 17,980 criminal cases pending, 105,030 civil/domestic cases, and 30,571 juvenile cases.<sup>385</sup>

***The Murphy Era: Centralization and the Administrative Judge***<sup>386</sup> Like the histories of so many government entities, small and large, the conflict between the "centralizers" and the "decentralizers" is unending. The history of this country is marked by that conflict in several eras: post colonial, Civil War, the administrations of Franklin D. Roosevelt, and the Republican vs Democrat debates in the 1980s and 1990s. In Maryland, the role of the General Court *vis a vis* the County Courts has been mentioned. The decentralized County Courts prevailed, and the centralized General Court disappeared from the judicial universe in Maryland.<sup>387</sup> The judiciary of Baltimore City has been center stage in the Maryland version of this debate. The existence of the six separate Supreme Bench courts was a monument to decentralization.

Elsewhere in Maryland, where the comparatively sparse population of the counties could not support or justify multiple courts, County Courts were, to a very great extent, judicial fiefdoms beholden to few higher authorities beyond English legal precedent and tradition, local practice rules and the case by case decisions of the Court of Appeals, which was itself, for much of the state's history, composed of judges of and from the various regional circuits. This decentralized approach was logical in light of the great travel and communication impediments. One can imagine the difficulty, in those days, of communicating between the shores across the Bay or over the mountains of the west. The easy highway and bay crossing travel which lawyers today take for granted, date only from the 1950s.

As the means of communication increased, so did the interest of the Bar in the efficiency and modernization of the local courts. To improve the judiciary everywhere in Maryland required some centralization of the authority to make it happen everywhere. The most important steps in that direction occurred in 1939 and 1943 with an expansion of the Court of Appeals' administrative and rulemaking authority. Pursuant to the constitution of 1867, the Court of Appeals had administrative and procedural authority to make and publish rules for the administration of the appellate courts only.<sup>388</sup> Trial level courts had great independence in conducting their administrative affairs, including the promulgation of local rules.

Dissatisfaction with perceived inefficiencies within the judicial system during the 1930's and 1940's led to an expansion of the Court of Appeals' authority over non-appellate courts within the State. In 1939, the General Assembly passed important legislation:

The Court of Appeals is authorized and requested to prescribe by general rules, the practice and procedure in all civil actions both at law and in equity in all Courts of Record throughout the State. Such general rules may, if the Judges of the Court of Appeals deem it advisable, unite the practice and procedure in actions at law and suits in equity so as to secure one form of civil action and procedure for both. . . .<sup>389</sup>

This historic legislation also authorized the Court of Appeals to "regulate all appeals . . . [and the] admissibility of evidence in all civil actions." In addition, in 1943, a constitutional amendment was proposed, and approved in 1944, declaring the Chief Judge of the Court of Appeals the administrative head of the judicial system of the State and broadening the Court of Appeals' administrative powers, including the authority to assign circuit judges and require operational reports from the Circuits.<sup>390</sup> These two enactments established the preeminence of the Court of Appeal in the centralized administration of the state judiciary. However, the Court was not quick to seize the day. Two decades passed before this sleeping giant awoke and began to promulgate rules intended to realize its full administrative potential.

The most notable of these rules was Rule 1200 [now Md. Rule 16-101], promulgated in 1969 and no doubt spurred in part by the defeat of the proposed con-



stitution the preceding year, which would have accomplished the same objective. While it was clear that the Maryland Constitution granted the Court and its Chief Judge broad administrative powers, the Court's Standing Committee on Rules of Practice and Procedure believed in 1969 that this authority had been exercised "to less than its full extent," and advocated that the Court take greater advantage of its management authority. In its Thirty-Fourth Report, the Rules Committee recommended the adoption of a "code of administrative provisions establishing administrative procedures applicable generally throughout the State and fixing responsibility for supervision or enforcement of these procedures." Following the Committee's recommendations, the Court of Appeals adopted Chapter 1200 on February 10, 1969. It became effective on April 1 of that year.

Under this rule, the Court of Appeals delegated to its chief judge the duty of administering all courts of the State, and to facilitate this, he or she was given the power to appoint a State Court Administrator. The Chief Judge was also given the power to assign judges of any court to sit temporarily in any other court within the State, in order to promote the expeditious disposition of cases. Additionally, the Chief Judge of the Court of Special Appeals was given duties and powers necessary to the administration of the Court of Special Appeals. Still, however, the Supreme Bench (and the county circuit courts) continued to have local rule making authority, so long as a local rule was not inconsistent with any general rules of the Court of Appeals.<sup>391</sup> This heightened administrative authority was little exercised until the elevation of Robert C. Murphy as Chief Judge of the Maryland Court of Appeals by Governor Marvin Mandel in 1972. A bare two years later, in 1974, Murphy's initiatives were already being praised: "Chief Judge of the Court of Appeals, Robert C. Murphy, [has], through his energy, resourcefulness, and deep concern about all aspects of the Maryland system, added new dimensions to the position of Chief Judge of the Court of Appeals".<sup>392</sup> In particular, Chief Judge Murphy was credited for accepting responsibility for administration of the courts, becoming a public spokesman for the judiciary and representing it as a governmental leader in dealings with the Governor and General Assembly.<sup>393</sup>

Another of the centralizing changes occurred in 1973 when the General Assembly enacted the Courts and Judicial Proceedings Article which unified a wide variety of code provisions in one Article and restated the power of the Court of Appeals to institute "a unified practice and procedure in actions at law and suits in equity" for all the courts in the State of Maryland.<sup>394</sup> The new statute reenforced the power vested in the Court of Appeals by the 1939 and 1943 legislation, to adopt uniform rules.<sup>395</sup>

The abolition of much of the procedural distinction between law and equity impacted Baltimore City in particular. The Eighth Judicial Circuit still had distinct courts dedicated to non-jury equity (e.g., Circuit Court of Baltimore City and Circuit Court No. 2 of Baltimore City) and to law (e.g., Court of Common Pleas and Superior

Court), each with its own elected clerk and staff attuned to the peculiarities and nuances of law and equity pleadings. The procedural merging of law and equity necessitated clerk retraining, form and pleading changes, and courtroom modifications. It presaged the full unification of the separate courts of the City a decade later.

*The Administrative Judge* In Baltimore City, as elsewhere, one of the most important ingredients of Rule 1200 was the establishment of the position of Administrative Judge. Prior to 1969, there was no such thing as an administrative judge although the authority to create such a position can be traced to both statutory<sup>396</sup> and common law.<sup>397</sup> The administrative judge, appointed by the Chief Judge of the Court of Appeals, would generally supervise the courts within his or her judicial circuit and have responsibility for the assignment of judges within that circuit. In multi-county circuits county administrative judges would also be appointed by the Circuit Administrative Judge. One obvious historic consequence was to defuse the traditional power of local chief judges who had a “first among equals” stature by virtue of seniority, except for a brief period in Baltimore City when the chief judge was appointed by the Governor. Unless the chief judge was also an administrative judge, his or her role on the court would be largely ceremonial, presiding at court sessions when more than one judge was present, a role well played with grace and humor by the City’s current Chief Judge Robert I.H. Hammerman since 1984. Although the Chief Judge of the Court of Appeals was free to appoint a circuit chief judge as administrative judge, he was not bound to do so.

While the nature of the office of administrative judge is often not fully appreciated by the public and even some members of the bar—its holders have even been confused with Administrative Law Judges upon occasion—Maryland’s administrative judges serve a vitally important purpose by essentially running their respective judicial circuits, including supervision of judges and personnel, docket control, budgets and purchasing.<sup>398</sup> This responsibility is especially awesome when the circuit in question happens to be Baltimore City, home of the highest volume of criminal, civil, and domestic cases in the State.

From the start, Chapter 1200’s goal of ensuring uniformity of practice throughout the courts of the State was troubled by the unique arrangement of the six Baltimore City courts. This conflict was somewhat remedied by language in the new rules providing that the term circuit was to include the Supreme Bench of Baltimore City. Still remaining, however, was a provision in the Maryland Constitution authorizing the judges of the Supreme Bench of Baltimore to vote on their respective assignments.<sup>399</sup> Consequently, the rule placing assignment powers in the Administrative Judge alone had problematic force in Baltimore until the repeal of the Supreme Bench assignment power in 1980.

The Bench itself had concerns about the effect of an administrative judge. Prior to the establishment of the administrative judge, the Chief Judge of the Supreme Bench, who was appointed by the Governor,<sup>400</sup> headed the Baltimore courts, although the major decisions were made by the Supreme Bench itself. In a sense, the Supreme Bench was its own authority prior to the adoption of the new rules and many members of the Baltimore Bench expected the chief judge would be appointed administrative judge as well. There was some concern about the dynamics of a Bench with an administrative judge appointed by the Chief Judge of Maryland suddenly possessing the authority once held by the chief judge, a gubernatorial appointee.

However, in Baltimore City Chief Judge Hall Hammond appointed Supreme Bench Chief Judge Dulany Foster to the administrative post; and Chief/Administrative Judge Foster served in this dual capacity until August 31, 1975 when he resigned from the Bench. With both the chief and administrative positions vacant, Maryland Governor Marvin Mandel appointed Anselm Sodaro as the next Chief Judge of the Supreme Bench on September 2, 1975.<sup>401</sup> He was thereafter appointed administrative judge by Maryland's Chief Judge Robert C. Murphy.

Possibly in the wake of "concerns about problems of backlog in the Baltimore City system" noted a few years earlier by the Russell Commission,<sup>402</sup> things changed in July of 1978. Chief Judge Murphy appeared at a Supreme Bench meeting to announce that he was replacing Chief Judge Sodaro in his capacity as administrative judge and appointing Judge Robert L. Karwacki in his stead. The entire Bench, according to one judge present, was surprised. Judge Sodaro's sudden replacement served as a reminder the Chief Judge of the Court of Appeals was indeed the "administrative head of the Judicial System of the State." Since 1978, no Chief Judge of Baltimore City's Bench has simultaneously held the office of Administrative Judge; and since 1980, Baltimore City's chief judges would ascend to that position through seniority rather than gubernatorial appointment.<sup>403</sup>

Before leaving the Baltimore Bench in 1984 to join the Court of Special Appeals and later the Court of Appeals, Administrative Judge Karwacki would play a major role, assisted by George B. Riffin, Jr. then the Bench Assignment Commissioner and now State Court Administrator, in the transformation of the six courts of the Supreme Bench of Baltimore City into the unified Circuit Court for Baltimore City.

Judge Karwacki's successor, Joseph H. H. Kaplan, was appointed Administrative Judge of the Circuit Court for Baltimore City by Chief Judge Murphy on September 20, 1984 and continues to serve in that capacity today.<sup>404</sup> During his stewardship of the court, Judge Kaplan has witnessed a staggering increase in the demands on the City's judiciary. Civil and domestic case filings are at an all-time high; record numbers of felony drug prosecutions and mass tort claims have necessitated the creation of special courts and required the appointment of additional

judges as well as the services of retired judges.<sup>405</sup> The juvenile population occupying courthouse lock-ups on a daily basis is climbing at a disheartening rate.<sup>406</sup>

Adding to the challenges of the City's administrative judge is the never-ending battle for money from City Hall and Annapolis to provide the needed resources. In Baltimore City, as in the other Circuits, local government continues to fund the bulk of court operations;<sup>407</sup> but routinely looks to the State to fund all or part of the judiciary. The State has responded episodically, by assuming responsibility for particular functions; but neither Governors nor legislators have been willing to accept the full fiscal burden, particularly for the buildings.<sup>408</sup>

In response to the complex administrative demands, Judge Kaplan established a Management Committee, comprised of his appointed "Judges in Charge" of each of the various dockets (civil, criminal, domestic relations/family, and juvenile), and one at-large judge elected by the Bench. This committee meets weekly to confront and resolve a multitude of management problems. While many of these resolutions are under the authority of the Administrative Judge, some are also placed on the bi-monthly Bench agenda, along with those items, such as appointment of Masters, which remain within the Bench prerogative.

The Circuit Court Administrative Judges accomplish much of the spirit and purpose of statewide unification. In addition to being appointees of the Chief Judge of the Court of Appeals, they, along with Circuit elected representatives, compose the Conference of Circuit Court Judges<sup>409</sup> which meets regularly to discuss and resolve problems peculiar to Maryland's Circuit Courts. When appropriate, this Conference requests law changes from the General Assembly and rule changes from the Court of Appeals. The chair person of the Conference is elected by the Conference. The perceived domination of the Circuit Court affairs by Annapolis and a philosophy of local autonomy led the state's circuit judges to form a private association in 1992, the Maryland Circuit Judges Association. It takes independent policy positions on matters affecting Circuit Court judges.

Though the administrative judge is a relatively new position in the storied history of the Baltimore judiciary, those who have held the title have done much to distinguish the office, both by day to day managerial oversight, and the long-term stewardship of two of the most elegant court structures in the State, Courthouse East and the Mitchell Courthouse.<sup>410</sup> That an institution inundated with so many cases and parties functions as smoothly as it does is daily silent testimony to the importance of the Administrative Judge and the cooperative attitude of the entire Bench and the Bar.

*The New Circuit Court for Baltimore City* The 1953 Commission To Study The Judiciary of Maryland was not fond of the City's judicial structure: "The present multiplication of courts in Baltimore City is indefensible. It is a monument to inertia

and an utterly unreasonable resistance to change.” The Commission language became more circumspect in identifying the source of the resistance, referring only to the “... difficulty experienced in devising a plan whose mechanics would be satisfactory to the clerks and their employees...”<sup>411</sup>

However, by 1980 the continuous increases in the membership of the Bench and the historically dramatic centralization of judicial administrative procedural and practice authority in the Court of Appeals in Annapolis perhaps made inevitable the end of the last vestige of the “old ways” of doing judicial business in Baltimore City—The Supreme Bench of Baltimore City. A new chapter of the history of the Baltimore City judiciary was written on November 4, 1980, when the Maryland electorate approved an amendment to the 1867 Constitution to abolish the existing Supreme Bench of Baltimore City and establish, on January 1, 1983, the Circuit Court for Baltimore City.<sup>412</sup>

To provide for a smooth transition, all judges of the Supreme Bench who were still in office on December 31, 1982, continued their terms as judges of the Circuit Court for Baltimore City.<sup>413</sup> This historic change unified the major trial Benches and consolidated all of the elected clerks into one Clerk of the Circuit Court for Baltimore City.<sup>414</sup>

The State is still divided into eight judicial trial court circuits, of which Baltimore City is the eighth,<sup>415</sup> and seven judicial appellate circuits, of which Baltimore is the sixth.<sup>416</sup> As the Constitution now reads, the judicial power in Maryland “is vested in a Court of Appeals, such intermediate courts of appeal as the General Assembly may create by law, Circuit Courts, Orphans’ Courts, and a District Court.”<sup>417</sup> With regard to the other Courts “existing... at the time of the adoption of this Constitution, [they] shall, until superseded under its provisions, continue with like powers and jurisdiction...”<sup>418</sup>

The 1997 Circuit Court for Baltimore City presides over dockets unimaginable in 1797, dockets driven by a societal addiction crisis, family disintegration, portentiously tortuous side effects of industrialization and urban density, a horrific rise in the level of unbounded violence on the street and abuse in the home, and, of course, the ubiquitous automobile. The Court has coped successfully, although barely, because of the additional judges (and many retired judges sitting temporarily), more efficient management of cases by trained clerks, computerization, and more flexible organization and assignment of hard working judges. The cooperation of and collaboration by the Bar and the General Assembly has been crucial as well, supporting creative responses to contemporary societal problems.

In 1997, a typical year, with each judge (except the Juvenile Judge and the Administrative Judge) rotating for six month terms [March–September] into a pre-assigned docket<sup>419</sup> the Court was organized as follows:



<b>Judge</b>	<b>Assignment</b>
Pt. 1 JUDGE JOHN N. PREVAS	Civil/Asbestos
Pt. 2 JUDGE DAVID W. YOUNG	Juvenile
Pt. 3 JUDGE ELLEN M. HELLER	Felony Trial Court
Pt. 4 JUDGE ALLEN L. SCHWAIT	Misdemeanor Trial Court
Pt. 5 JUDGE BONITA J. DANCY	Domestic Merits
Pt. 6 JUDGE JOHN CARROLL BYRNES	Civil
Pt. 7 JUDGE JOSEPH P. MCCURDY	Special Felony Drug Court
Pt. 8 JUDGE GARY I. STRAUSBERG	Civil/Asbestos
Pt. 9 JUDGE RICHARD T. ROMBRO	Civil/Asbestos
Pt. 10 CHIEF JUDGE ROBERT I. H. HAMMERMAN	Civil
Pt. 11 JUDGE DAVID B. MITCHELL	Chambers/Motions
Pt. 12 ADMINISTRATIVE JUDGE JOSEPH H. H. KAPLAN	Judge At Large/Civil
Pt. 13 JUDGE KATHLEEN O'FERRALL FRIEDMAN	Misdemeanor Trial Court
Pt. 14 JUDGE ROGER W. BROWN	Domestic/Motions
Pt. 15 JUDGE CLIFTON J. GORDY	Felony Trial Court
Pt. 16 JUDGE THOMAS E. NOEL	Civil
Pt. 17 JUDGE KENNETH LAVON JOHNSON	Domestic/Miscellaneous
Pt. 18 JUDGE MARTIN P. WELCH	Juvenile
Pt. 19 JUDGE THOMAS J.S. WAXTER, JR.	Special Felony Drug Court
Pt. 20 JUDGE ALBERT J. MATRICCIANI, JR.	Civil
Pt. 21 JUDGE EDWARD J. ANGELETTI	Civil/Asbestos
Pt. 22 JUDGE THOMAS WARD	Civil
Pt. 23 JUDGE MABEL E. HOUZE HUBBARD	Felony Trial Court
Pt. 24 JUDGE JOHN C. THEMELIS	Felony Trial Court
Pt. 25 JUDGE PAUL A. SMITH	Special Felony Drug Court
Pt. 26 JUDGE CAROL E. SMITH	Civil
Pt. 27 JUDGE WILLIAM C. QUARLES	Special Felony Drug Court
Pt. 28 JUDGE EVELYN OMEGA CANNON	Felony Arraignments

In close cooperation with the Bar and Administrative Office of the Court, the City's Bench continually explores new approaches to case management, for examples, pre-trial scheduling orders and Differentiated Case Management (DCM), procedures that improve the management of the bulging criminal, civil and domestic dockets.<sup>420</sup>

The various Circuit Courts have utilized a number of case management systems over the past few years, but variations in the counties produced frustration within the Bar, who had to comply with the individual requirements of each county system.<sup>421</sup>

Standardized DCM, a state-wide effort to bring uniformity to the expeditious disposal of cases, uses automation through the Administrative Office of the Courts to categorize and schedule cases.<sup>422</sup> The objectives of DCM have been described as: "resolving all civil disputes in an impartial and expeditious manner, reducing the time from filing to disposition in civil cases to dispose of 90 percent of all cases within twelve months and 100 percent within twenty-four months, reducing the number of scheduled events, creating a maximum of five tracks in which to organize civil trials, and increasing trial date certainty."<sup>423</sup>

Volunteer lawyer Mediators, organized and shepherded by Judge Ellen M. Heller, have also had great impact on the civil and domestic dockets, resolving an average of

43% of cases per month.<sup>424</sup> Parental seminars inaugurated by Judge Kathleen O'Ferrall Friedman and Master, now Judge, Bonita J. Dancy, encourage informed and caring parents to address the inter-family problems that frequently explode into more litigation. Drug Treatment Courts, administered by Judges Roger W. Brown, Clifton J. Gordy, Thomas E. Noel and Joseph P. McCurdy, have potential for bringing some control to a criminal docket driven by the illegal drug plague. Early statistics reveal a comparatively low recidivism rate. In 1996, the General Assembly, largely at the urging of Peter G. Angelos, prominent litigator for thousands of asbestos plaintiffs, and Administrative Judge Kaplan, created four new judgeships on the City Bench. They will permit the court not only to make progress on that front, where virtually all of the asbestos cases in the state have been concentrated; but also to bring additional resources to bear on the huge domestic docket which has burst at the seams, allowing too little time for each contested case.

The concept of a Family Court, long advocated by former Supreme Bench Judge Robert B. Watts, and more recently by Delegate Kenneth C. Montague, Jr., was approved by the General Assembly in 1993.<sup>425</sup> Baltimore City was authorized to develop particular strategies to implement this<sup>426</sup> and in 1996, \$140,000 was allocated by the General Assembly to create the City's Family Division.<sup>427</sup> Among the services offered by the new Family Division, under Judge Albert J. Matricciani, are conciliation and mediation services, parenting seminars, and a family division services coordinator. Family Division judges will be linked to one another and to juvenile judges and masters by computer with the ultimate goal of the new coordinated approach being that "family, domestic, and juvenile matters be treated in the judicial system as equally important as other matters, both civil and criminal; in order to better enable the courts to handle family, domestic, and juvenile matters in a more coordinated, efficient, and responsive manner . . ."<sup>428</sup> Because many judges have reservations about the emotional impact of ongoing exposure to the very stressful domestic and family docket, the length of assignment of judges to this work will likely be limited.

Other resources of the Circuit Court include an administrative office, community service, rehabilitative alternatives to prison for non-violent offenders, and a medical staff for psychological and psychiatric evaluations and recommendations. Family assessments and mediation, adoption and custody evaluations, and access to a multitude of pre-trial and post-trial and family support programs for the addicted, the ill-educated, the unskilled, the jobless, the mentally or emotionally impaired, the abandoned, all managed by various departments of the State and City governments, are also available. In criminal cases where public safety and punishment requires it, the state prison system, in 1996 holding 21,923 prisoners, a majority from Baltimore City, is resorted to.<sup>429</sup> Contemporary felony sentencing is frequently influenced by Sentencing Guidelines that propose a sentence from a matrix of relevant sentencing factors and reflect the recorded sentencings in similar cases

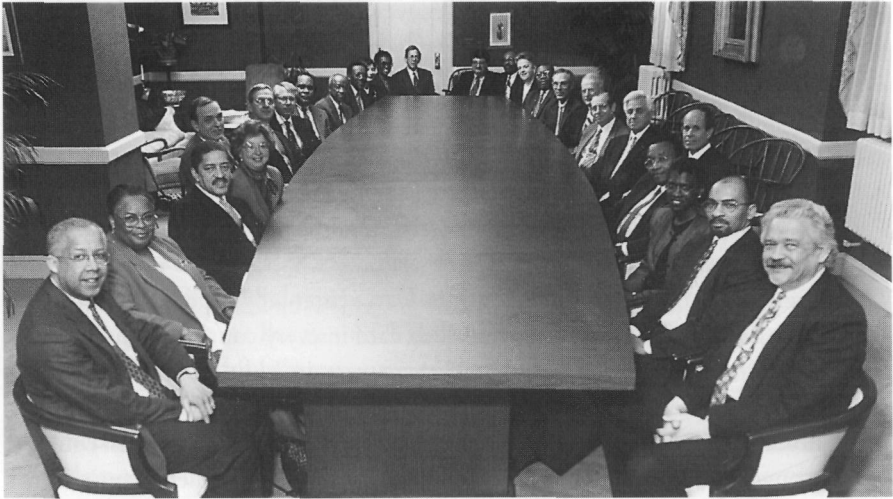
throughout the state's circuit courts. Former Baltimore City Circuit Judge Marshall A. Levin's initiative produced these guidelines on July 1, 1983 in response to serious concerns that excessive statewide disparity in sentences was unconstitutional.

As noted, the illegal drug plague is a major contributor to the criminal and juvenile dockets and, indirectly, to the domestic docket. In 1990, the Bar Association of Baltimore City appointed the Russell Committee, chaired by former Supreme Bench Judge George L. Russell, Jr. to investigate the drug crisis and underfunding of the justice system in Baltimore City.<sup>430</sup> The State's Attorney reported to the Russell Committee the following percentages of all felonies that were CDS [Controlled Dangerous Substances] violations: 35.3%, 1986; 43.4%, 1987; 44.1%, 1988; 50.3%, 1989, and 51.6%, 1990. Between 1984 and 1989 juvenile arrests increased 62%. By 1989 there were 15,144 juvenile cases pending, and the arrests of juveniles for serious felonies, including those involving CDS, had greatly increased.<sup>431</sup> Although an estimated 50% of all felony prosecutions in Baltimore City are direct drug offenses and 85% of all felony prosecutions are "drug driven offenses,"<sup>432</sup> only 10% of drug offenders are seen by the criminal justice system.<sup>433</sup> The Russell Committee recommended important reforms of the City's justice system. The Committee's first recommendation was "[i]n recognition of the dramatic increase in drug cases, funds should be restored or increased at the state and local levels to all components of the justice system which function in Baltimore City."<sup>434</sup> Following the recommendations of the Russell Committee, a one-time appropriation to the Court system was made for improvements to the juvenile justice system.<sup>435</sup>

In May 1992, the Juvenile Court Improvement Committee was formed to determine how best to carry out the recommendations of the Russell Committee. One result is the previously mentioned Juvenile Justice Center for Baltimore City to be completed in the year 2000.<sup>436</sup> The Center will consolidate juvenile intake, court functions, and the Department of Juvenile Justice into one facility. A 144 bed detention center will be housed in the Center, as well as Juvenile Divisions of the State's Attorney and Public Defender's offices.<sup>437</sup>

## The Future of the Judiciary

On December 15, 1996, the Commission on the Future of Maryland Courts<sup>438</sup> presented its report to the Governor and the General Assembly. Although its recommendations are not peculiar to the City, they will have a significant impact on the City's judiciary if adopted by the General Assembly. To continue the centralization of the judiciary and presumed increased uniformity and efficiency, consolidation of the Circuit Courts<sup>439</sup> under a single chief judge is recommended with some degree of circuit autonomy; and a unified judicial personnel system proposed, along with state funding of state judicial functions in local courthouses. The absorption of the



*Following their bi-monthly meeting, on March 6, 1997, the judges of the Circuit Court for Baltimore City face the camera. Beginning on the left: Judges Martin P. Welch, Mabel H. Hubbard, Clifton J. Gordy, Kathleen O'Ferrall Friedman, Allen L. Schwait, Richard T. Rombro, Gary I. Strausberg, Thomas E. Noel, Kenneth Lavon Johnson, Roger W. Brown, Ellen M. Heller, Bonita J. Dancy, John Carroll Byrnes, John N. Prevas, Paul A. Smith, Carol E. Smith, David B. Mitchell, Thomas J.S. Waxter, Jr., Joseph P. McCurdy, [Adm.J.] Joseph H.H. Kaplan, [Chief.J.] Robert I.H. Hammerman, Albert J. Matricciani, William D. Quarles, Evelyn Omega Cannon, David W. Young, Edward J. Angeletti.*

Orphans' Court by the Circuit Court is also recommended. Alternate Dispute Resolution, such as arbitration and mediation, which is already a heavy operational component of the City's Circuit Court, and new mechanisms like "mini-trials and summary jury trials" are proposed, as is increased reliance on technology to improve intra-judicial communication and public access.<sup>440</sup> The present Baltimore City practice of one-day one-trial for jurors and use of licensed drivers lists for the jury pool are urged state-wide. Misdemeanor juries would consist of six rather than 12 members.

The Commission also concluded that circuit judges should be subjected to "retention," rather than competitive elections<sup>441</sup> for 14 rather than 15 year terms; but all judges would be subjected to public evaluations if retention elections were adopted. The presently popularly elected Circuit Court Clerks and Registers of Wills would be appointed by the County/City Administrative Judge, subject to the new Chief Judge of a consolidated Circuit Court. The Commission took a hard look at the criminal docket crisis and, assuming it was not realistic to expect either an increase in prison bed space or a dramatic cultural revolution for the better, opted for recommendations that would encourage greater resort to diversion and rehabilitation programs, such as the City's Drug Treatment Court, and earlier plea discussions. It also encouraged decriminalization of non-incarcerable traffic offenses, so that they could be tried administratively, and an end to *de novo* criminal appeals from the District

Court. Finally, wherever feasible, Family Courts would be established in the Circuits to facilitate better interaction between Juvenile and Domestic cases and causes.<sup>442</sup>

As has been noted, a few of the recommendations of the Commission are the practice in Baltimore City.<sup>443</sup> Others are controversial and their fate is unpredictable. Some recommendations will give a helpful boost to on-going evolutionary changes such as the City's Family Court, jury pool selection, and procedural uniformity.

The Commission did not speak to underlying problems that confront the City's Circuit Bench; and the future of the City's judiciary will be shaped more by them. The disintegration of the family<sup>444</sup> that often leaves parentally rudderless children to get to shore on their own, will leave its calling card in every courtroom, particularly criminal court, where on one day in 1997 there were, in addition to the previously assigned cases on each criminal court's docket, six murders, one rape, one robbery with a deadly weapon and five narcotic cases waiting to be assigned an open court.<sup>445</sup>

The ongoing upheaval in law practice traditions and the disquieting incivility of a few lawyers and judges will all feature in our judicial future unless the stress of increasingly competitive law practices and the tensions of rushed and crowded courtrooms are somehow mitigated.

It is fair to predict greater reliance on expensive technology, creating what one experienced member of the City Bar calls an "arms race": escalating acquisitions of machines that do more faster, such as "faxes," "E-mail," video conferencing, the internet, and other computer based research programs.<sup>446</sup> This "arms race" is not likely to improve the morale of the practitioner soldiers in the field, nor is it certain to add to the quality of practice, just the volume. Nor will as many lawyers look with unmitigated envy at the life of the judicial soldiers on the Bench as they daily confront the chaotic lives and anti-social behavior of an increasing number of citizens, many of whose criminal and juvenile charges must be quickly "pleaded out"<sup>447</sup> just to keep the justice system in step with the case load.

More optimistically, however, the changes in the practice of law have brought greater professional freedom and individual opportunity to more lawyers. Judges may come in increasing numbers from the public service, in addition to the private sector. The future may provide judges sentencing options more humane and protective of the public and, for the non-violent offender, more life-restructuring than classic imprisonment. Judges in the Domestic and Juvenile arena will be able to look to more holistic approaches to family needs and dynamics; and provide civic leadership towards larger cultural solutions. New technologies will allow juries and judges access to "virtual reality" images of past events. Future generations will penetrate more deeply the frontier of new law affecting bio-ethics, race and cultural relations, constitutional liberty interests, and information-communications technology. The next Commission on the Future of the Judiciary and the Rules Committee may look hard at new approaches to mass tort claims and more efficient jury trials.



Also, the Bench and Bar will give even greater attention to the needs of not only impoverished citizens in need of legal representation but also to those in the middle income brackets.<sup>448</sup> In 1995, Administrative Judge Kaplan reported that “the domestic docket which consists of three judges and two masters is overburdened with *pro se* and domestic violence cases.”<sup>449</sup> Baltimore City’s Circuit Court, for example, has established a part-time office, staffed by supervised law students, that advises litigants as to elementary introductory practice and procedure in Domestic cases. Because there is no reason to anticipate a future lowering of law practice costs, nor, therefore of fees, the expense of legal representation will remain out of reach for many citizens. The willingness of the Bar to undertake *pro bona* representation while impressive, has not yet been sufficiently responsive to the need.<sup>450</sup> It is likely, therefore, that pressure will mount to authorize persons other than licensed lawyers to meet particular legal needs.<sup>451</sup> Such pressure would have been resisted by past legislatures dominated by lawyers; a domination nearly ended.<sup>452</sup>

Another challenge to the Bench and Bar will likely be met—the widely perceived deterioration in the quality of professional life. Many Bar and Bench leaders lament the decline in professionalism, with particular reference to civility among lawyers and between Bench and Bar. In 1996, the Bar Association of Baltimore City, at the initiative of its president, Judge Albert J. Matricciani, Jr., published civility guidelines, which were endorsed by the City’s Circuit Bench.<sup>453</sup> Earlier, in 1990, the Court of Appeals had adopted Bar Admission Rule 11 requiring all lawyers who pass the Bar to devote a day to a program of lectures and discussions designed to impress upon them their responsibilities as members of the legal profession.<sup>454</sup>

One of the probable reasons for increased professional tension, at least for litigators, was the crush of cases. Statewide, the courts faced staggeringly huge annual caseloads. For instance, in the fiscal year that ended on June 30, 1996, 262,320 cases were filed in the 24 circuit courts. Of these, 68,672 were criminal cases, 147,784 were civil cases, and 45,866 of them were juvenile cases. During that same fiscal year, a backlog of 304,477 cases were in the pipeline.<sup>455</sup> Consideration of mandatory alternate dispute resolution to expedite case management was, therefore, another focus of the Commission.<sup>456</sup> In Baltimore City, for example, non-binding mediation (including good old fashioned settlement conferences) has contributed to the pre-trial resolution of up to ninety percent of the cases in the civil and domestic courts. Plea bargaining has had a similar effect on the criminal docket.<sup>457</sup>

The Commission also gave serious attention to judicial selection. The suggested abolition of popular election of Circuit Judges will likely again engender spirited debate, particularly energized by those who believe that “minority” appointments would suffer without the threat of popular election. The equally vigorous rebuttal will likely be that female judges and those from the Hispanic and African American communities would be appointed in any event, should not be discouraged from

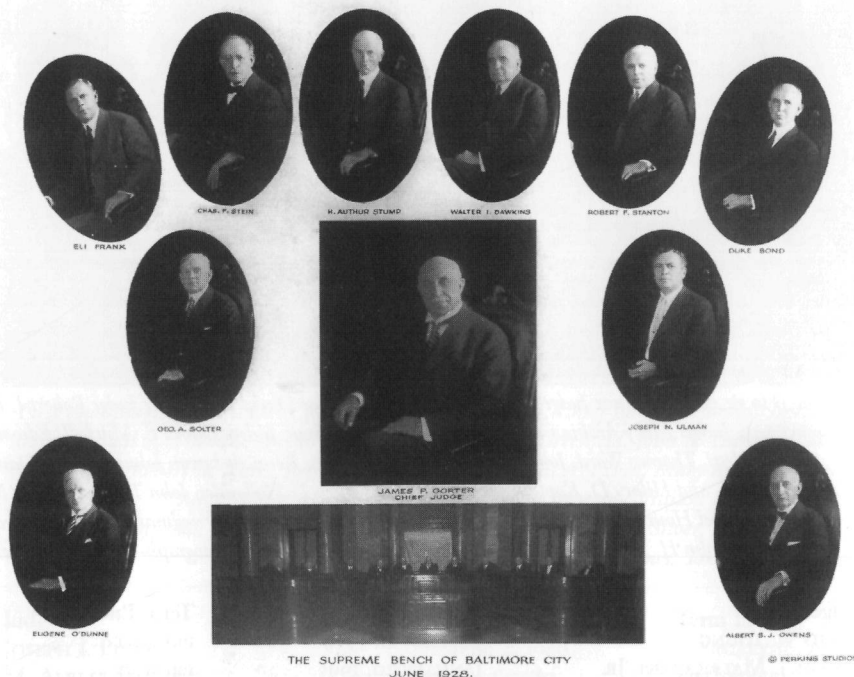
applying from apprehension of the harsh realities of political campaigns and will themselves face competition.<sup>458</sup>

Finally, the future will likely bring continued attention to statewide standardization of litigation practice and procedure. As the last among his many initiatives as chairman of the Rules Committee, Alan L. Wilner, in 1993, shepherded the many independent rules and case precedents that were the free roaming sheep of the state's evidentiary standards into one centralized codified flock.<sup>459</sup> Whether the centralizing and standardizing trend which was given impetus under Chief Judge Murphy and Judge Wilner will abate under Chief Judges Robert M. Bell and Joseph F. Murphy, Jr. cannot now be predicted. What can be predicted is that both of these judicial leaders will work to make the Judicial Branch more accessible to the public.<sup>460</sup> Although at this writing, the final disposition of the "Futures" Commission's proposals is not known, it is fair to predict that, like the work of the 1967–68 Constitutional Convention, its work will not be short lived.

## Conclusion

As this brief history makes clear, the City judiciary has been resilient and adaptable to change as society's circumstances have required. Strong past and recent administrative leadership by Judges Henry D. Harlan, Morris A. Soper, Samuel K. Dennis, Emory H. Niles, Robert L. Karwacki and Joseph H.H. Kaplan, by Chief Judge Robert C. Murphy of Maryland's Court of Appeals during his long tenure, first as Chief Judge of the Court of Special Appeals (1967–1972), and thereafter as Chief Judge of the Court of Appeals (1972–1996), and by former Court of Special Appeals Chief Judge Alan J. Wilner (now a member of the Court of Appeals) as chairman of the Rules Committee, has played a key role in the circuit judiciary's ability to adapt to new conditions and demands.<sup>461</sup> In the City, the initiative and leadership of several judges<sup>462</sup> responsible for particular dockets and conscientious service by all of the judges also has had very good effect.

Just as there have been extensive changes and developments in the judiciary since the City's incorporation in 1797, the Circuit Court for Baltimore City will likely see more changes in the future. Old ideas will likely be revisited, and new ones developed and implemented. Whatever changes the future centuries hold for the state and Baltimore City's Circuit Court, they will surely add to the rich history and legacy of Baltimore City's Bench and Bar.



*Eli Frank, Charles F. Stein, H. Arthur Stumpf, Walter I. Dawkins, Robert F. Stanton, Duke Bond, Joseph N. Ulman, Albert S. J. Owens, and Chief Judge James P. Border. (1928)*

## ***Chief Judges and Administrative Judges of The Supreme Bench of Baltimore City and The Circuit Court for Baltimore City from 1867 to Present***

### ***Chief Judges***

T. PARKIN SCOTT 1867-1873  
 GEORGE WILLIAM BROW 1873-1888  
 HENRY DAVID HARLAN 1888-1915  
 MORRIS A. SOPER 1915-1922  
 JAMES P. GORTER 1922-1928  
 SAMUEL K. DENNIS 1928-1945  
 W. CONWELL SMITH 1945-1955

EMORY H. NILES 1955-1963  
 MICHAEL J. MANLEY 1963-1967  
 DULANEY FOSTER 1967-1975  
 ANSELM SODARO 1975-1980  
 J. HAROLD GRADY 1980-1984  
 ROBERT I.H. HAMMERMAN 1984-present

### ***Administrative Judges***

DULANEY FOSTER 1969-1975  
 ANSELM SODARO 1975-1978

ROBERT L. KARWACKI 1978-1984  
 JOSEPH H.H. KAPLAN 1984-PRESENT

## ***Judges of the Circuit Court for Baltimore City<sup>463</sup>***

### **Judge**

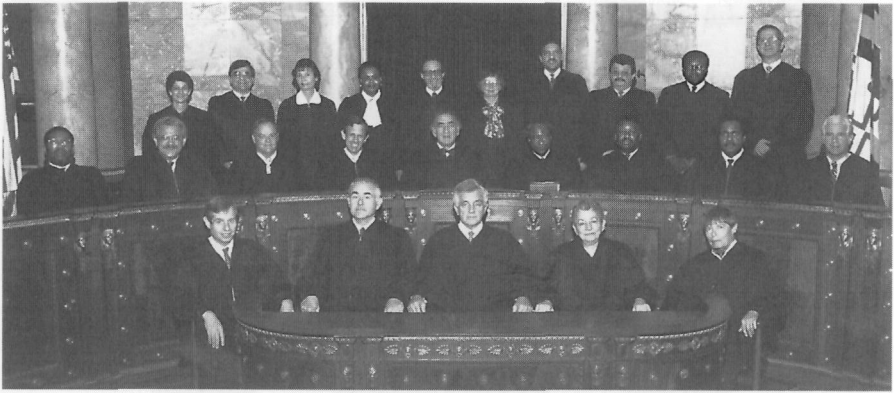
ALLEN L. SCHWAIT  
 EVELYN OMEGA CANNON  
 WILLIAM D. QUARLES  
 THOMAS J.S. WAXTER, JR.  
 GARY I. STRAUSBERG  
 BONITA J. DANCY

### **Term Began**

MARCH 3, 1997  
 DECEMBER 6, 1996  
 NOVEMBER 18, 1996  
 AUGUST 29, 1996  
 JANUARY 19, 1996  
 JANUARY 18, 1996

### **Term Ended**

PRESENT  
 PRESENT  
 PRESENT  
 PRESENT  
 PRESENT  
 PRESENT



*first row (l to r): Administrative Judge Joseph H. H. Kaplan, Judge David Ross, Chief Judge Robert I. H. Hammerman, Judges Mary Arabian and Elsbeth Bothe; second row: Judges David B. Mitchell, Edward J. Angeletti, Thomas Ward, John Carl Byrnes, Joseph Pines, Kenneth Lavon Johnson, Arrie Davis, Thomas E. Noel, and Hilary D. Kaplan; third row: Judges Ellen L. Hollander, John Themelis, Ellen M. Heller, Mabel Houze Hubbard, Marvin Steinberg, Kathleen O'Ferrall Friedman, Clifton J. Gordy, John H. Prevas, Paul A. Smith and Richard T. Rombro (Photograph—1990, R. Holden)*

### Judge

DAVID W. YOUNG  
ALBERT J. MATRICCIANI, JR.  
CAROL E. SMITH  
MARTIN PIERRE WELCH  
JOSEPH PATRICK MC CURDY  
ANDRE MAURICE DAVIS  
PAUL A. SMITH  
ELLEN LIPTON HOLLANDER  
RICHARD T. ROMBRO  
JOHN C. THEMELIS  
ROGER W. BROWN, SR.  
ELLEN MOSES HELLER  
JOHN NICKOLAS PREVAS  
CLIFTON JAMES GORDY, JR.  
MABEL EVELYN HOUSE HUBBARD  
MARVIN B. STEINBERG  
KATHLEEN O'FERRALL FRIEDMAN  
HILARY D. CAPLAN  
DAVID B. MITCHELL  
THOMAS E. NOEL  
EDWARD J. ANGELETTI  
ARRIE W. DAVIS

### Term Began

JANUARY 11, 1996  
JANUARY 20, 1995  
SEPTEMBER 13, 1993  
JULY 28, 1992  
MAY 3, 1991  
DECEMBER 19, 1990  
OCTOBER 9, 1990  
MARCH 1, 1989  
FEBRUARY 28, 1989  
OCTOBER 3, 1988  
DECEMBER 16, 1987  
DECEMBER 3, 1986  
JULY 7, 1986  
SEPTEMBER 24, 1985  
SEPTEMBER 26, 1985  
MARCH 12, 1985  
MARCH 1, 1985  
JUNE 18, 1984  
JUNE 11, 1984  
AUGUST 19, 1983  
JUNE 3, 1983  
JUNE 3, 1983

### Term Ended

PRESENT  
PRESENT  
PRESENT  
PRESENT  
PRESENT  
AUGUST 14 1995<sup>164</sup>  
PRESENT  
OCTOBER 3, 1994<sup>165</sup>  
PRESENT  
PRESENT  
PRESENT  
PRESENT  
PRESENT  
PRESENT  
PRESENT  
OCTOBER 1, 1996  
PRESENT  
SEPTEMBER 5, 1995  
PRESENT  
PRESENT  
PRESENT  
DECEMBER 27, 1990<sup>166</sup>

### *Judges of the Supreme Bench of Baltimore City*<sup>167</sup>

#### Judge

THOMAS WARD  
KENNETH LAVON JOHNSON  
JOHN CARROLL BYRNES  
WILLIAM H. MURPHY

#### Term Began

DECEMBER 15, 1982  
DECEMBER 10, 1982  
FEBRUARY 26, 1982  
DECEMBER 8, 1980

#### Term Ended

FEBRUARY 27, 1997  
PRESENT  
PRESENT  
MAY 4, 1983



*First row: Judges Paul A. Dorf, Robert I. H. Hammerman, Chief Judge J. Harold Grady, David Ross and Basil A. Thomas. Second row: Judges Martin B. Greenfeld, John R. Hargrove, James W. Murphy, Robert B. Watts, Robert L. Karwacki, Marshall A. Levin, Mary Arabian, Milton B. Allen. Third row: Judges Kenneth Lavon Johnson, William H. Murphy, Robert M. Bell, Joseph H. H. Kaplan, Solomon Baylor, Edgar P. Silver, Elsbeth Levy Bothe, Joseph I. Pines, John Carroll Byrnes, Thomas Ward. (1982)*

## Judge

JOSEPH I. PINES  
M. ALBERT FIGINSKI  
PETER D. WARD  
ROBERT M. BELL  
ELSBETH LEVY BOTHE  
SOLOMON BAYLOR  
JOSEPH H. H. KAPLAN  
EDGAR P. SILVER  
ROBERT L. SULLIVAN, JR.  
MILTON B. ALLEN  
MARTIN B. GREENFIELD  
MARY ARABIAN  
JOHN R. HARGROVE  
ROBERT L. KARWACKI  
MARSHALL A. LEVIN  
JAMES W. MURPHY  
PAUL A. DORF  
JOSEPH C. HOWARD  
BASIL A. THOMAS  
ROBERT B. WATTS  
SOLOMON LISS  
DAVID ROSS  
GEORGE D. SOLTER  
HARRY A. COLE  
THOMAS J. KENNEY  
ROBERT I. H. HAMMERMAN  
EDWIN J. WOLF  
GEORGE L. RUSSELL, JR.  
JAMES A. PERROTT

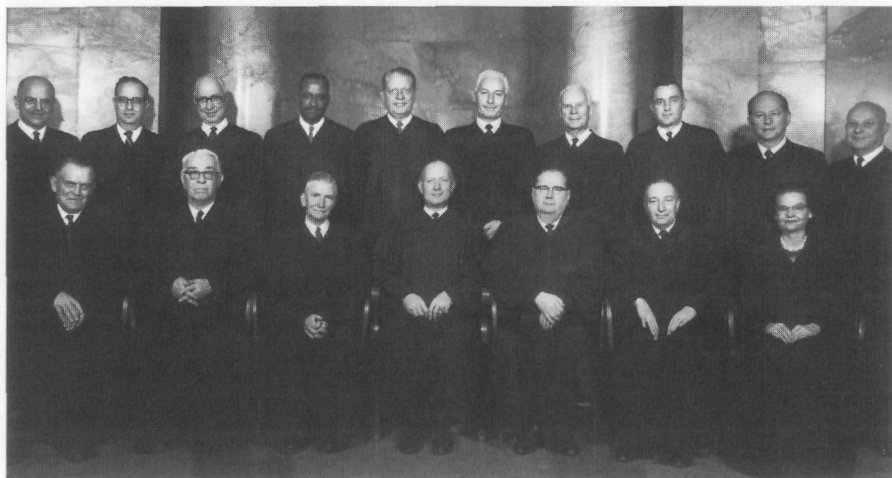
## Term Began

NOVEMBER 4, 1980  
FEBRUARY 4, 1980  
JANUARY 24, 1980  
JANUARY 2, 1980  
FEBRUARY 24, 1978  
FEBRUARY 10, 1978  
DECEMBER 19, 1977  
AUGUST 15, 1977  
MARCH 5, 1976  
FEBRUARY 6, 1976  
AUGUST 18, 1975  
SEPTEMBER 20, 1974  
SEPTEMBER 2, 1974  
OCTOBER 5, 1973  
OCTOBER 19, 1971  
DECEMBER 16, 1970  
DECEMBER 17, 1968  
DECEMBER 17, 1968  
DECEMBER 17, 1968  
SEPTEMBER 5, 1968  
SEPTEMBER 5, 1968  
SEPTEMBER 5, 1968  
JANUARY 15, 1968  
JUNE 1, 1967  
MAY 3, 1967  
JANUARY 20, 1967  
JUNE 29, 1966  
JANUARY 25, 1965

## Term Ended

FEBRUARY 16, 1982  
DECEMBER 7, 1980  
DECEMBER 14, 1982  
DECEMBER 5, 1984<sup>468</sup>  
JANUARY 15, 1996  
SEPTEMBER 1, 1986  
PRESENT  
DECEMBER 3, 1988  
OCTOBER 23, 1977  
MARCH 1, 1986  
AUGUST 25, 1988  
SEPTEMBER 1, 1990  
FEBRUARY 18, 1984<sup>469</sup>  
SEPTEMBER 25, 1984<sup>470</sup>  
SEPTEMBER 7, 1987  
JANUARY 4, 1985  
APRIL 1, 1983  
OCTOBER 22, 1979<sup>471</sup>  
MAY 1, 1983  
JULY 5, 1985  
JULY 9, 1976<sup>472</sup>  
JUNE 30, 1996  
DECEMBER 15, 1970  
DECEMBER 12, 1977<sup>473</sup>  
DECEMBER 16, 1968  
PRESENT  
DECEMBER 16, 1968  
JANUARY 2, 1968<sup>474</sup>  
DECEMBER 1, 1982





*First row: Judges J. Gilbert Prendergast, Edwin Harlan, Joseph R. Byrnes, Chief Judge Dulany Foster, Joseph L. Carter, Anselm Sodaro and Shirley B. Jones. Second row: Judges Edwin J. Wolfe, James A. Perrott, Thomas J. Kenney, George L. Russell, Jr., J. Harold Grady, William J. O'Donnell, Charles D. Harris, Robert I. H. Hammerman, Albert L. Sklar, Meyer M. Cardin. (Photograph—Bachrach, 1967)*

### Judge

WILLIAM J. O'DONNELL  
 ALBERT L. SKLAR  
 WILSON A. BARNES  
 J. HAROLD GRADY  
 CHARLES D. HARRIS  
 MEYER M. CARDIN  
 SHIRLEY BRANNOCK JONES  
 DULANEY FOSTER  
 J. GILBERT PENDERGAST  
 JOSEPH ALLEN  
 ANSELM SODARO  
 EDWIN HARLAN  
 CORNELIUS P. MUNDY  
 REUBEN OPPENHEIMER  
 DEELEY K. NICE  
 JAMES K. CULLEN  
 JOSEPH L. CARTER  
 JOSEPH R. BYRNES  
 S. RALPH WARREN  
 ROBERT FRANCE  
 MICHAEL J. MANLEY  
 HERMAN M. MOSER  
 E. PAUL MASON  
 JOSEPH SHERBOW  
 CHARLES E. MOYLAN, SR.  
 JOHN T. TUCKER  
 WILLIAM H. HENDERSON  
 CRAIG McLANAHAN

### Term Began

OCTOBER 5, 1964  
 SEPTEMBER 14, 1964  
 SEPTEMBER 9, 1963  
 DECEMBER 7, 1962  
 JANUARY 8, 1962  
 OCTOBER 17, 1961  
 SEPTEMBER 22, 1961  
 NOVEMBER 2, 1959  
 NOVEMBER 2, 1959  
 DECEMBER 19, 1956  
 DECEMBER 11, 1956  
 NOVEMBER 6, 1956  
 SEPTEMBER 19, 1955  
 SEPTEMBER 19, 1955  
 NOVEMBER 22, 1954  
 DECEMBER 23, 1952  
 FEBRUARY 2, 1952  
 DECEMBER 19, 1950  
 NOVEMBER 30, 1948  
 DECEMBER 19, 1946  
 OCTOBER 1, 1945  
 OCTOBER 23, 1944  
 OCTOBER 17, 1944  
 MAY 4, 1944  
 SEPTEMBER 11, 1943  
 JUNE 18, 1943  
 MAY 1, 1942  
 DECEMBER 5, 1938

### Term Ended

APRIL 29, 1974<sup>475</sup>  
 DECEMBER 17, 1981  
 DECEMBER 15, 1964<sup>476</sup>  
 MAY 1, 1984  
 JANUARY 8, 1976  
 JULY 13, 1977  
 OCTOBER 22, 1979<sup>477</sup>  
 AUGUST 31, 1975  
 JULY 13, 1973  
 JULY 1, 1963  
 JANUARY 1, 1980  
 DECEMBER 20, 1966  
 NOVEMBER 15, 1956  
 SEPTEMBER 14, 1964<sup>478</sup>  
 NOVEMBER 27, 1956  
 SEPTEMBER 21, 1970  
 JULY 20, 1974  
 SEPTEMBER 1, 1968  
 AUGUST 7, 1961  
 NOVEMBER 28, 1952  
 JUNE 20, 1966  
 NOVEMBER 27, 1956  
 DECEMBER 16, 1961  
 FEBRUARY 16, 1952  
 MARCH 9, 1967  
 OCTOBER 8, 1961  
 OCTOBER 1, 1944<sup>479</sup>  
 MARCH 19, 1946



*First row: Judges E. Paul Mason, Bond T. Tucker, Chief Judge Emory H. Niles, Charles E. Moylan, Michael J. Manley. Second row: Judges Cornelius A. Mundy, Deely K. Nice, Joseph L. Carter, S. Ralph Warnken, Joseph R. Byrnes, James K. Cullen, Reuben Oppenheimer. (Photograph—Bachrach, 1956)*

### Judge

EMORY H. NILES  
W. CONWELL SMITH  
EDWIN T. DICKERSON  
J. ABNER SAYLOR  
OSCAR LESER  
ALBER S. J. OWENS  
ROLAND K. ADAMS  
J. FRANK SUPPLEE, JR.  
SAMUEL K. DENNIS  
EUGENNE O'DUNNE  
JOSEPH N. ULMAN  
GEORGE A. SOLTER  
W. STUART SYMINGTON, JR.  
DUKE BOND  
ELI FRANK  
CHARLES F. STEIN  
ROBERT F. STANTON  
MORRIS A. SOPER  
JAMES M. AMBLER  
WALTER I. DAWKINS  
CARROLL T. BOND  
H. ARTHUR STUMP  
HENRY DUFFY  
CHARLES W. HEUISLER  
CONWAY W. SAMS  
JAMES P. GORTER  
THOMAS IRELAND ELLIOT  
THOMAS S. BAER

### Term Began

DECEMBER 5, 1938  
DECEMBER 5, 1938  
SEPTEMBER 24, 1937  
JUNE 8, 1937  
MAY 11, 1937  
NOVEMBER 17, 1936  
MARCH 1, 1934  
NOVEMBER 18, 1934  
1928  
FEBRUARY 19, 1926  
DECEMBER 3, 1924  
AUGUST , 1924  
AUGUST 18, 1924  
NOVEMBER 25, 1922  
JUNE 6, 1922  
OCTOBER 15, 1921  
JANUARY 10, 1916  
JANUARY 2, 1914  
JANUARY 3, 1912  
AUGUST 31, 1911  
APRIL 18, 1911  
APRIL 21, 1910  
NOVEMBER 29, 1909  
MAY 2, 1908  
APRIL 28, 1908  
AUGUST 15, 1907  
NOVEMBER 6, 1906  
NOVEMBER 3, 1903

### Term Ended

OCTOBER 15, 1962  
JUNE 4, 1954  
\_\_\_\_\_, 1948  
OCTOBER 14, 1950  
DECEMBER 5, 1938  
MARCH 29, 1937  
FEBRUARY 10, 1943<sup>480</sup>  
APRIL 2, 1937  
1944  
1945  
1943  
1943  
FEBRUARY 19, 1926  
DECEMBER 3, 1938  
1944  
SEPTEMBER 24, 1937  
SEPTEMBER 20, 1938  
OCTOBER 5, 1921<sup>481</sup>  
AUGUST 14, 1924  
1934  
APRIL 13, 1924<sup>482</sup>  
FEBRUARY 10, 1934  
NOVEMBER , 1926  
NOVEMBER 2, 1924  
SEPTEMBER 5, 1909  
AUGUST 17, 1928  
DECEMBER 5, 1915  
1906

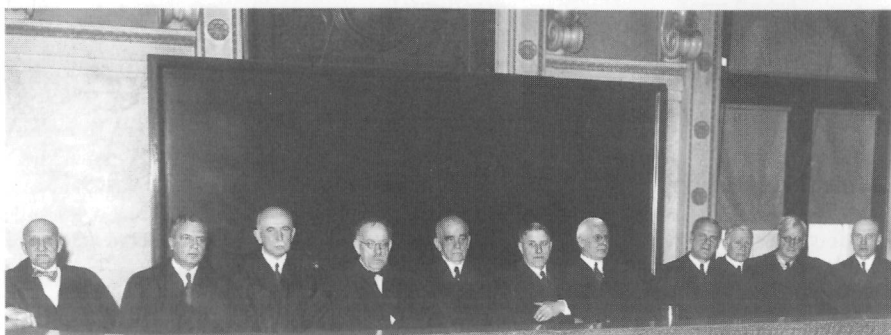
Judge	Term Began	Term Ended
ALFRED S. NILES	JULY 29, 1906	JANUARY 1, 1912
MARTIN LEHMAYER	SEPTEMBER 8, 1900	NOVEMBER 2, 1909
GEORGE MATTHEWS SHARP	NOVEMBER 2, 1897	JULY 7, 1911
HENRY STOCKBRIDGE	NOVEMBER 3, 1896	APRIL 13, 1911
JOHN J. DOBLER	NOVEMBER 26, 1894	JUNE 4, 1922
ALBET RITCHIE	SEPTEMBER 14, 1892	SEPTEMBER 14, 1903
PERE LITBURY WICKES	JULY 5, 1892	AUGUST 18, 1907
HENRY DAVID HARLAN	NOVEMBER 5, 1889	JANUARY 1, 1914
DANIEL GIRAUD WRIGHT	NOVEMBER 6, 1888	APRIL 19, 1910
JOHN UPSHUR DENNIS	JANUARY 4, 1887	1907
EDWARD DUFFY	NOVEMBER 7, 1882	1892
WILLIAM A. FISHER	NOVEMBER 7, 1882	1886
CHARLES EDWARD PHELPS	NOVEMBER 7, 1882	1908
WILLIAM ALEXANDER STEWART	NOVEMBER 7, 1882	1892
GEORGE WILLIAM BROWN (COMMON PLEAS)	OCTOBER 17, 1873	1888
GEORGE W. DOBBIN (CIRCUIT COURT)	NOVEMBER 1, 1867	NOVEMBER 3, 1882
HENRY F. GAREY (CITY COURT)	NOVEMBER 1, 1867	NOVEMBER 3, 1882
ROBERT GILMOR, JR. (SUPERIOR)	NOVEMBER 1, 1867	NOVEMBER 3, 1882
CAMPBELL W. PICKNEY (CRIMINAL)	NOVEMBER 1, 1867	NOVEMBER 3, 1882
THOMAS PERKIN SCOTT (COMMON PLEAS)	NOVEMBER 1, 1867	1873

### *Judges of the Courts Created by the Constitution of 1851*

WILLIAM ALEXANDER (CIRCUIT)	NOVEMBER, 1863	NOVEMBER 3, 1867
JOHN C. KING (COMMON PLEAS)	NOVEMBER 6, 1861	NOVEMBER 3, 1867
HUGH LENNOX BOND (CRIMINAL)	MARCH 15, 1860	NOVEMBER 3, 1867
ROBERT N. MARTIN (SUPERIOR)	NOVEMBER 6, 1859	NOVEMBER 3, 1867
Z. COLLINS LEE (SUPERIOR)	1855	NOVEMBER 6, 1859
BENJAMIN C. PRESTMAN (SUPERIOR)	AUGUST 4, 1855	1855
WILLIAM GEORGE KREBS (CIRCUIT)	1853	NOVEMBER, 1863 <sup>483</sup>
WILLIAM L. MARSHALL (COMMON PLEAS)	1852	1861
HENRY STUMP (CRIMINAL)	1852	MARCH 15 1860
WILLIAM FRICK (SUPERIOR)	1852	AUGUST 4, 1855

### *Judges of the Courts Created Prior to the 1851 Constitution<sup>484</sup>*

Judge	Term Began	Term Ended
WILLIAM FRICK (CHIEF, COUNTY)	JULY 6, 1848	DECEMBER 1, 1851
JOHN CARROLL LEGRAND (COUNTY)	MARCH 13, 1844	DECEMBER 1, 1851
JOHN PURVANCE (COUNTY)	MAY 7, 1833	DECEMBER 1, 1851
W.G.D. WORTHINGTON (CITY)	FEBRUARY 2, 1833	DECEMBER 1, 1851
RICHARD B. MAGRUDER (COUNTY)	OCTOBER 30, 1832	JANUARY, 1844
THOMAS KELL (COUNTY)	AUGUST 6, 1827	MAY 7, 1833
STEVENSON ARCHER (CHIEF, COUNTY)	AUGUST 7, 1823	JUNE 30, 1848
WILLIAM M'MECHAN (CITY)	BY 1821	FEBRUARY 2, 1833
ALEXANDER NISBET (CITY)	BY 1821	DECEMBER 1, 1851
WILLIAM H. WARD (COUNTY)	JANUARY 20, 1818	AUGUST 6, 1827
WALTER DORSEY (CHIEF, COUNTY)	MARCH 14, 1817	AUGUST 7, 1823
NICHOLAS BRICE (CHIEF, CITY)	FEBRUARY 6, 1817	DECEMBER 1, 1851
CHARLES W. HANSON (COUNTY)	FEBRUARY 5, 1817	OCTOBER 30, 1832



First row: Judges Albert S. J. Owens, Joseph N. Ulman, Duke Bond, Charles F. Stein, Walter I. Dawkins, Chief Judge Samuel K. Dennis, Robert F. Stanton, Eli Frank, George A. Solter, Eugene O'Dunne, Rowland K. Adams. (1934)

Judge	Term Began	Term Ended
LUTHER MARTIN (CHIEF, O, T&G)	AUGUST 23, 1813	DECEMBER, 1816 <sup>485</sup>
THEODORICK BLAND (COUNTY)	OCTOBER 10, 1812	JANUARY 20, 1818
JOHN SCOTT (CHIEF, O, T&G)	APRIL 5, 1808	JULY 15, 1813
JOSEPH H. NICHOLSON (CHIEF, COUNTY)	APRIL 14, 1806	MARCH 14, 1817
ZEBELON HOLLINGSWORTH (COUNTY)	JANUARY 27, 1806	FEBRUARY 5, 1817
THOMAS JONES (COUNTY)	JANUARY 16, 1806	OCTOBER 10, 1812
ELIAS GLENN (COUNTY)	JUNE, 1804	JANUARY, 1806
EDWARD JOHNSON (COUNTY)	FEBRUARY, 1802	JANUARY, 1806
WALTER DORSEY (CHIEF, O, T&G)	FEBRUARY 9, 1800	APRIL 5, 1808
JOB SMITH (O, T&G, CITY)	JANUARY 10, 1799	BY 1821
LYDE GOODWIN (O, T&G)	JANUARY 6, 1798	
WILLIAM WINCHESTER (COUNTY)	APRIL, 1797	JUNE, 1804
HENRY RIDGELY (CHIEF, COUNTY)	NOVEMBER 29, 1796	APRIL 14, 1806
WILLIAM OWINGS (COUNTY)	JANUARY 16, 1795	FEBRUARY, 1802
GEORGE SALMON (O, T &G)	JANUARY 14, 1794	JANUARY 12, 1795
GEORGE GOLDSMITH PRESBURY (O, T&G)	JANUARY 14, 1794	1800 OR LATER
THOROUGHGOOD SMITH (O, T&G)	JANUARY 14, 1794	1798
NICHOLAS ROGERS (O, T&G)	JANUARY 14, 1794	1798
SAMUEL CHASE (CHIEF, O, T&G)	JANUARY 14, 1794	FEBRUARY 9, 1800 <sup>486</sup>
SAMUEL STERETT	MARCH, 1793	JANUARY 16, 1795
JOSHUA CENEY (CHIEF)	JUNE 18, 1792	NOVEMBER 29, 1796
JOHN EAGER HOWARD	JUNE 18, 1792	MARCH, 1793
WILLIAM RUSSELL	JUNE 18, 1792	APRIL, 1797
BENJAMIN NICHOLSON (CHIEF)	JANUARY, 1791	JUNE 18, 1792
JAMES CARROLL	JANUARY, 1791	JUNE 18, 1792
OTHO H. WILLIAMS	JANUARY, 1791	JUNE 18, 1792
THOMAS BAILEY	MARCH 9, 1786	DECEMBER, 1790
EDMUND STANSBURY	FEBRUARY 3, 1785	DECEMBER, 1790
RICHARD OWINGS	FEBRUARY 3, 1785	DECEMBER, 1790
JOHN JAMES	FEBRUARY 3, 1785	MARCH 9, 1786
WILLIAM PATTERSON	FEBRUARY 3, 1785	MARCH 9, 1786
WILLIAM GOODWIN	FEBRUARY 3, 1785	MARCH 9, 1786

Judge	Term Began	Term Ended
JOHN EDGAR HOWARD	FEBRUARY 3, 1785	1789
DOCTOR LYDE GOODWIN	JANUARY 8, 1784	DECEMBER, 1790
THOMAS TODD	MARCH 17, 1783	
DOCTOR JOHN COULTER	JANUARY II, 1783	
THOMAS ELLICOT	JANUARY II, 1783	
ROBERT NORTH CAMAN	JANUARY II, 1783	MARCH 9, 1786
WILLIAM RUSSELL	JANUARY II, 1783	DECEMBER, 1790
THOMAS RUSSELL	JANUARY 17, 1781	DECEMBER, 1789
HENRY WILSON	JANUARY 17, 1781	1784
SAMUEL WORTHINGTON	JANUARY 17, 1781	JANUARY II, 1783
JAMES MCHENRY	OCTOBER 21, 1779	FEBRUARY 3, 1785
SAMUEL STRINGER COLE	OCTOBER 21, 1779	1781
WILLIAM AESQUITH	OCTOBER 21, 1779	1781
JOHN ELDER	OCTOBER 21, 1779	1781
GEORGE LUSO	NOVEMBER 19, 1778	JANUARY II, 1783
ABRAHAM VANBIBBER	NOVEMBER 19, 1778	DECEMBER, 1790
WILLIAM NIEL	NOVEMBER 19, 1778	OCTOBER 21, 1779
RICHARD CROMWELL	NOVEMBER 19, 1778	JANUARY 17, 1781
ROBERT LEMMON	NOVEMBER 19, 1778	1787
JESSE BUSSEY	NOVEMBER 19, 1778	FEBRUARY 3, 1785
JEREMIAH JOHNSON	NOVEMBER 19, 1778	DECEMBER, 1790
FREDERICK DECKER	NOVEMBER 19, 1778	NOVEMBER 17, 1781
JOHN MERRYMAN, JR.	NOVEMBER 19, 1778	FEBRUARY 3, 1785
CHRISTOPHER VAUGHAN	NOVEMBER 19, 1778	MARCH 9, 1786
EDWARD COCKEY	NOVEMBER 19, 1778	MARCH 9, 1786
GEORGE LINDENBERGER	NOVEMBER 19, 1778	JANUARY II, 1783
JOHN ROBERT HOLLYDAY	NOVEMBER 19, 1778	OCTOBER 21, 1779
PETER SHEPHERD	NOVEMBER 19, 1778	MARCH 9, 1786
CHARLES RIDGELY	NOVEMBER 19, 1778	MARCH 9, 1786
THOMAS SOLLANS	NOVEMBER 19, 1778	JANUARY II, 1783
JAMES CALDER	OCTOBER , 1775	1781
GEORGE GOLDSMITH PRESBURY	OCTOBER , 1775	MARCH 9, 1786
E. MACKIE	OCTOBER , 1775	1778
WILLIAM SMITH, JR.	OCTOBER , 1775	1778
JAMES CLARKE	OCTOBER , 1775	1778
WILLIAM GOODWIN	OCTOBER , 1775	1778
JOHN WELSH	1774	1778
JAMES CALHOUN	1774	JANUARY 8, 1784
WILLIAM RUSSELL	1774	1778
HERCULES COURTNEY	1774	JANUARY 17, 1781
AMOS GARRETT	MARCH , 1772	1778
THOMAS BOND	MARCH , 1772	1778
THOMAS SOLLERS	MARCH , 1772	1776
JOHN MOALE	MARCH , 1772	1776
JONATHAN PLOWMAN	MARCH , 1772	1778
THOMAS TALBOT	JUNE , 1772	1778
JOHN SMITH	NOVEMBER , 1772	1778
WILLIAM BUCHANAN	NOVEMBER , 1772	OCTOBER 21, 1779
WILLIAM WEBB	NOVEMBER , 1772	1778
WILLIAM SPEAR	NOVEMBER , 1772	OCTOBER 21, 1779

Judge	Term Began	Term Ended
THOMAS BOND	AUGUST , 1766	1776
JOHN BEALE HOWARD	AUGUST , 1766	JANUARY II, 1783
BANJAMIN ROGERS	MARCH , 1763	1776

### ***Judges of the Orphans' Court for Baltimore City***

*Chief Judge:* HOWARD I. GOLDEN

*Associate Judge:* JOYCE M. BAYLOR-THOMPSON

*Associate Judge:* LEWYN S. GARRETT

*Court Clerks:* M. NANCY SAUNDERS, TRACEY PHELPS

### ***Masters of the Circuit Court for Baltimore City***

*General Equity Master:* SUSAN M. MARZETTA, ESQ. *Masters For Juvenile Causes:* BRADLEY O. BAILEY, ESQ., CLAUDETTE M. BROWN, ESQ., PATRICIA L. BROWN, ESQ., JAMES P. CASEY, ESQ., KATHRYN E. KOSHEL, ESQ., RICHARD D. LAWLOR, ESQ., ZAKIA M. MAHASA, ESQ., GREGORY SAMPSON, ESQ., BRIGHT K. WALKER, ESQ. *Domestic Equity Masters:* BRENDA A. CLARK, ESQ., AND MIRIAM B. HUTCHINS, ESQ.

### ***Clerks of the Courts of The Supreme Bench of Baltimore City*<sup>487</sup>**

#### **Superior Court**

EDWARD DOWLING	1851-1856
JOHN SPEAR SMITH	1856-1857
GEORGE E. SANGSTON	1857-1863
ALFORD MACE	1863-1867
GEORGE ROBINSON	1867-1878
FRANCIS A. PREVOST	1878-1882
RICHARD T. ALLISON	1882-1883
JAMES BOND	1883-1895
ROBERT OGLE	1895-1907
STEPHEN C. LITTLE	1907-1938
M. LUTHER PITTMAN	1938-1956
JAMES F. CARNEY	1956-1968
ROBERT H. BOUSE	1968-1978
WILLIAM ALLEN	1978-1981
CHARLES W. MACKEY, JR.	1981-1982

#### **Criminal Court**

THOMAS H. MOORE	1851-1857
THOMAS H. GARDNER	1857-1863
JAMES B. ASKEW	1863-1867
WILLIAM F. MCKEWEEN	1867-1879
JOHN S. BULLOCK	1879-1891
HORACE G. DUDLEY	1891-1897
HENRY J. BROENING	1897-1903
SAM W. PATTISON	1903-1921
EDWARD GROSS	1921-1946
WILFORD L. CARTER	1946-1952
LAWRENCE R. MOONEY	1952-1972
GEORGE F.J. BROWN	1972-1974
LAWRENCE A. MURPHY	1974-1982

#### **Court of Common Pleas**

LAMBERT S. NORWOOD	1851-1855
WILLIAM J. HAMILL	1855-1861
JAMES D. LOWRY	1861-1867
ISAAC FREEMAN RASIN	1867-1885
JOHN T. GRAY	1885-1896
JAMES M. VANSANT	1896-1897
JAMES H. LIVINGSTON	1897-1903
ADAM DEUPERT	1903-1921
JAMES Y. CLAYPOOL	1921-1934
FRANK C. ROBEY	1934-1970
JOSEPH C. DERSCH	1970
PAUL L. CHESTER	1970-1975
J. RANDALL CARROLL	1975-1978
SAUNDRA E. BANKS	1978-1982

#### **Original Circuit Court**

WILLIAM H.H. TURNER	1853-1859
THOMAS B. GAITHER	1859-1860
GEORGE W. SHERWOOD	1860
ROBERT J. KERR	1860-1861
J. THOMAS ADAMS	1861-1865
SAMUEL M. EVANS	1865-1867
JAMES R. BREWER	1867-1885
ALVIN ROBERTSON	1885-1897
BARREDA TURNER	1897-1903
MAX WAYS	1903-1909
WILLIAM M. CARSON	1909-1915
CHARLES R. WHITEFORD	1915-1942
HENRY J. RIPPERGER	1942-1972
LOUIS COHEN	1972-1978
RONALD J. WILEY	1978-1982



**Baltimore City Court**

ANDREW J. GEORGE	1867-1873
NATHANIEL C. ROBERTSON	1873-1880
WILLIAM F. McKEWEN	1880-1887
HENRY A. SCHULTZ	1887-1905
GEORGE CAREY LINDSAY	1905-1934

**Baltimore City Court**

JAMES B. BLAKE	1934-1938
JOHN O. RUTHERFORD	1934-1978
ELMER O. HARRIS	1978-1982

**Original Circuit Court No. 2**

JOHN H. SUTER	1888-1895
ALFRED J. SCHULTZ	1895-1901
WILLIAM R. BREWER	1901
THOMAS A. ROBINSON	1901-1907
JOHN PLEASANTS	1907-1939

**Original Circuit Court No. 2**

CHARLES A. McNABB	1939-1942
JOHN S. CLARKE	1942-1956
G. GORDON KIRBY	1956-1970
RALEIGH E. STOKES	1970
JOHN D. HUBBLE	1970-1976
ELLIOTT R. MORRISON	1976-1977
JOHN F. KELLY	1977-1982

***Clerk of the Circuit Court for Baltimore City***

SAUNDRA E. BANKS 1982-

***Supreme Bench/Circuit Court Administrators and Their Deputies***

ADMINISTRATOR	TERM	DEPUTY
THOMAS P. MACCARTHY	1966-1972	NO DEPUTY (EDWARD MOONEY, ASSISTANT ADMINISTRATOR)
ROBERT W. McKEEVER	1972-1975	FRANCIS SLIWKA
SELIG SOLOMON	1975-1979	FRANCIS SLIWKA
ROBERT H. BOUSE	1979-1980	ERNESTINE THOMAS
TERRY T. DEINLEIN	1980-1985	BARBARA A. ROBINSON
WILLIAM L. HOWARD	1985-1995	MARY B. WIDOMSKI
VACANT	1995-PRESENT	MARY B. WIDOMSKI <sup>488</sup>

# CHAPTER TWO

## Our Courthouses

*by Michael E. Greene, Esq.*<sup>489</sup>

AS HAS BEEN NOTED, BALTIMORE-TOWN was part of Baltimore County during most of its youth. The courthouse thus served as the early government center for the County, housing (as it continues to do) many non-judicial government functions. The first reported meeting of the judges of Baltimore County occurred on July 20, 1661 in the home of Captain Thomas Howell, the "presiding commissioner."<sup>490</sup> In 1683 a courthouse was built "near the mouth of the Bush River . . . in a small town named Baltimore . . . in what is now Harford County."<sup>491</sup> In 1690 the County courthouse was situated "at Gunpowder on Sim's Choice,"<sup>492</sup> and in 1717 in Joppa.

The first courthouse in what is now Baltimore City stood in the middle of Calvert Street from 1770 until 1809. By an Act of the Assembly of 1768, a commission was authorized to erect this new building in Baltimore. The location named in their instructions was "the uppermost part of Calvert Street, next Jones' Falls," which Scharf places "precisely where the Battle Monument now stands on Calvert Street."<sup>493</sup> (The Battle Monument commemorates the defense of Baltimore at North Point and Fort McHenry during the War of 1812). In the words of John P. Kennedy:

When it was first built it overlooked the town from the summit of the hill some fifty feet or more above the level of the present street, and stood upon a cliff which, northward, was washed at the base by Jones Falls—in that primitive day a pretty rural stream that meandered through meadows garnished with shrubbery and filled with browsing cattle, making a pleasant landscape from the court-house windows.<sup>494</sup>

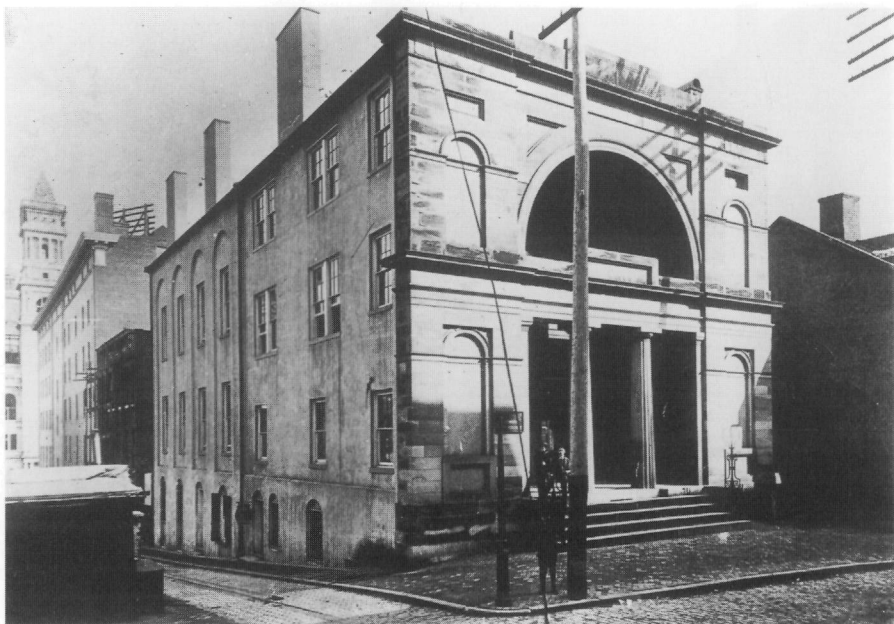


*Baltimore Town's Old Courthouse (after underpinning to permit Calvert Street to run below the Courthouse), drawn by Robert B. Kershaw after an ink drawing circa 1834 by John H. B. Latrobe, Maryland Historical Society. A stairway in one of the legs allowed access.*

In an 1851 lecture before the Maryland Institute, Kennedy described it this way:

This was a famous building, this old Court House, which to my first cognizance, suggested the idea of a house perched on a great stand. It was a large, dingy square structure of brick, elevated upon a massive basement of stone, which was perforated by a broad arch. The buttresses on either side of the arch supplied space for a stairway that led to the halls of Justice above, and straddled over a pillary, whipping posts and stocks, which were sheltered under the arch as symbols of the power that was at work above.<sup>495</sup>

In 1784 the appearance of the courthouse was changed dramatically when the city fathers decided to open Calvert Street to the north. In order to preserve the courthouse,

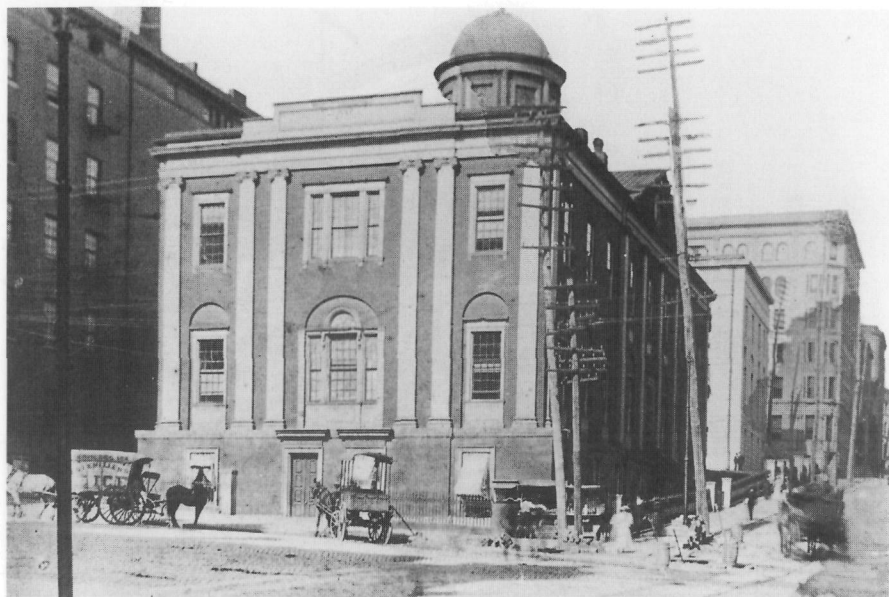


*Temporary Baltimore City Court Building (formerly a Masonic Temple). Photograph circa 1882, Maryland Historical Society.*

twenty feet of earth had to be excavated under the courthouse and the building had to be supported by arches, thus permitting traffic to move under it in order to reach the new northern sections of Calvert Street.<sup>496</sup> As Baltimore grew, authorities decided that the Jones Falls should be deflected eastward from its natural course along the base of the bluff where the courthouse stood in order to promote the growth of the city.<sup>497</sup>

By 1805, the first courthouse was “in a state of ruinous decay, and the public records therein deposited considerably endangered. . . .”<sup>498</sup> An act was passed, therefore, to authorize a levy of at least \$50,000 to build a new courthouse and to raze the old courthouse building and devote what was necessary of the ground where it had stood for a thoroughfare and to sell the rest.<sup>499</sup> Baltimore’s second courthouse stood on the Southwest Corner of Calvert and Lexington Streets from 1809 until 1895, when it too was razed with all of the other buildings in the block to make way for the present courthouse.<sup>500</sup> During this period, a fire in 1834 severely damaged the City’s land records, prompting, in 1836, the construction of a separate Court House and Record Office Building.

The ceremony of laying the corner-stone of the new City and County Records Office, on the Court House lot at the S.E. corner of Lexington and St. Paul Streets, was performed on Wednesday morning, June 28th, by Solomon Etting, president of the board of commissioners for repairing the Court House, &c., assisted by General Samuel Smith, the venerable Mayor, in presence of Chief Justice Taney, the judges of the different courts and other city and county officers, and a numerous assemblage of citizens and strangers<sup>501</sup>



*Baltimore City Courthouse at Calvert and Lexington Streets. Photograph circa 1891, Maryland Historical Society.*

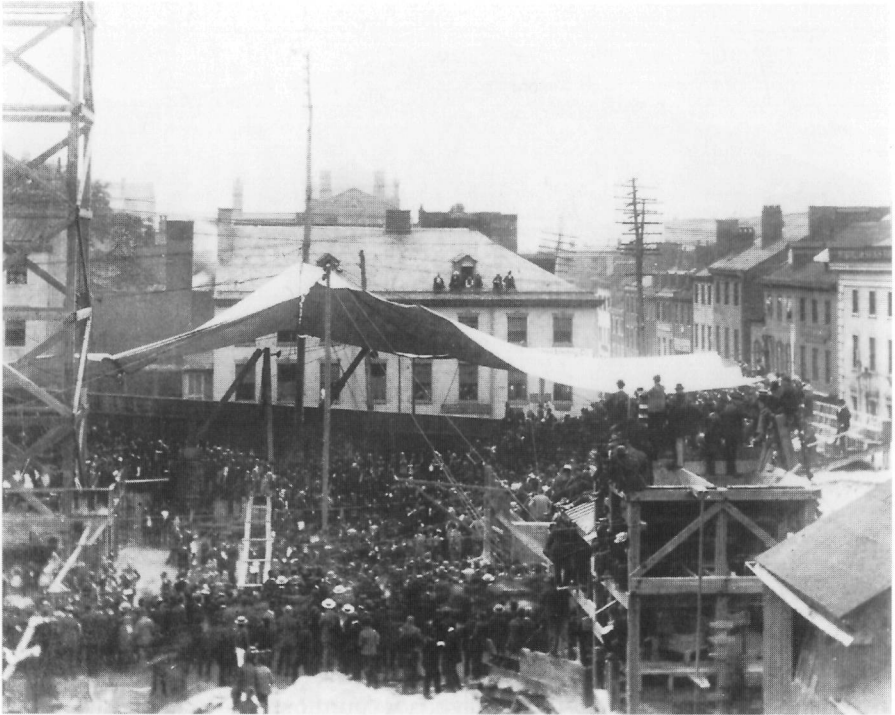
Around 1867 the old Masonic Building on St. Paul Street, which had formerly housed the federal court, was also used by the Baltimore judiciary.<sup>502</sup> An 1876 appropriation for The “Old Masonic Building,” included:

Salary of Superintendent, twelve hundred dollars; salary of watchman, one thousand dollars; cleaning court and jury rooms, six hundred dollars; cleaning hall and grounds of Record building, one hundred and twenty dollars; ice for court and jury rooms, two hundred dollars; repairs of furniture, one hundred and fifty dollars; taking up and cleaning carpets, one hundred dollars; scrubbing court and jury rooms, fifty dollars; buckets, brooms, brushes and dusters, forty dollars; repairing stoves and coal hods, one hundred and fifty dollars; gas and repair of fixtures, two hundred dollars; water rent, twenty-four dollars; hauling ashes, fifty dollars; coal, five hundred dollars; stowing coal, twenty-five dollars; kindling wood, seventy-five dollars; stowing wood, five dollars; incidental expenses, one hundred dollars; white-washing hall, stairway and offices, one hundred dollars; cocoa matting and carpets for Criminal Court, one hundred and thirty dollars.<sup>503</sup>

Pending the construction of the new courthouse, a temporary courthouse was built in 1895, at North and Lexington Streets.<sup>504</sup>

## The Clarence M. Mitchell, Jr. Courthouse

The building of the present Mitchell Courthouse symbolizes the commercial growth of Baltimore and the prosperity of its citizens during the second half of the nineteenth century. The General Assembly of 1876 passed an act providing for the issuance of \$750,000 in bonds for the construction of a new and much larger courthouse.<sup>505</sup> An



*Laying of the Cornerstone for the new Baltimore City Court House in 1896. Photograph circa 1896, Baltimore City Life Museum. Notwithstanding the industrial revolution, the construction site looks like a cross between a public square in the French Revolution and the beginnings of the Pyramids.*

advisory building commission was formed in 1881, and in 1892 the General Assembly passed an act authorizing the mayor and city council of Baltimore to issue up to \$6,000,000 of stock, part of which was to be used for the purchase of ground and the building of a courthouse. The act also stated that before any further action could be taken, an ordinance that the citizens of Baltimore would vote upon was required.<sup>506</sup> The mayor and city council enacted the necessary ordinance in October, 1892,<sup>507</sup> and the ordinance was approved by the voters of Baltimore in the following November election, although the ordinance was not officially ratified until 1898.<sup>508</sup> The amount set aside for the courthouse and necessary grounds was at first \$1,750,000. The final cost, however, was approximately \$2,250,000.<sup>509</sup>

On June 29, 1894 the proposed plan of the Baltimore architectural firm of Wyatt & Nolting was selected from among 79 anonymously submitted designs.<sup>510</sup> These architects also designed the Roland Park Shopping Center in Baltimore, one of the earliest shopping center in America.<sup>511</sup> On August 8, 1895 the razing of the old courthouse and all the other buildings on the same square block began, and cornerstone ceremonies were held on June 25, 1896.<sup>512</sup> Construction was finished in December,

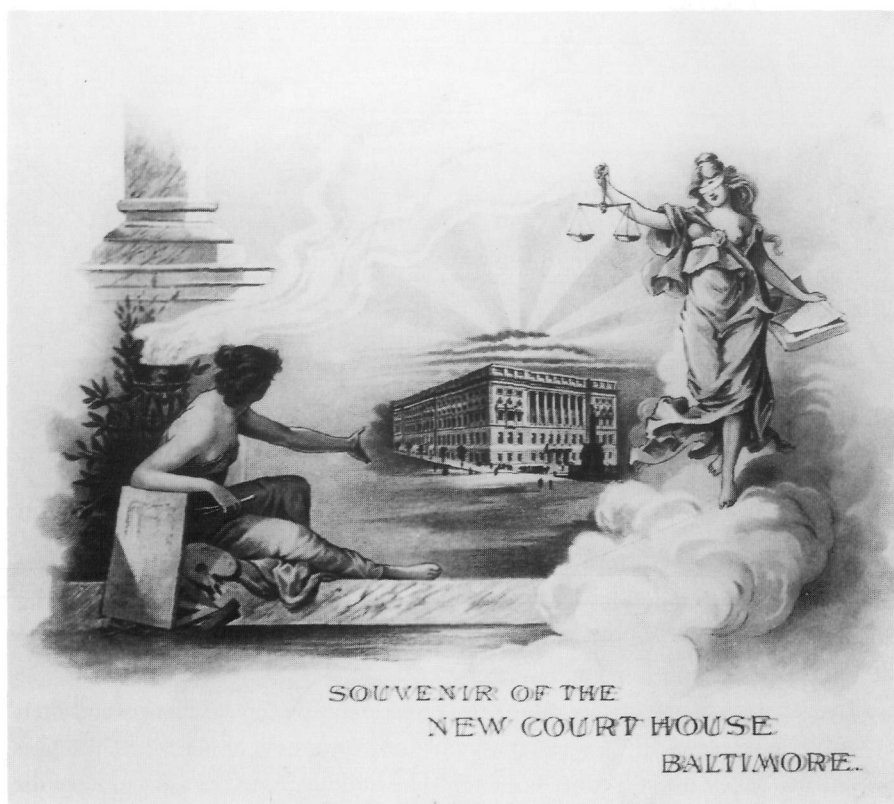




*Baltimore City Court House. Half-tone Print circa 1896, Maryland Historical Society.*

1899, and the courthouse was occupied the following month.<sup>513</sup> Officially dedicated on January 8, 1900, during which it was referred to as “this noble pile,”<sup>514</sup> the building reflected the prosperity and national stature of both Baltimore and Maryland. The new three-story classically styled courthouse was as impressive as any found in much larger cities.<sup>515</sup> It exemplified the Renaissance Revival style architecture that emulated the detail used in the highest examples of Grecian architecture, considered to be “the purest and most perfect style of architecture.”<sup>516</sup> The courthouse was adapted to the modern needs of early twentieth-century America. The designers of the courthouse admired the Grecian style, “with its row after row of fluted columns, its lack of windows and its open roofs. . . .”<sup>517</sup> They viewed this architectural style as a way of associating Baltimore in 1900 with what they considered to be the height of classical civilization, ancient Greece.<sup>518</sup>

With the exception of the basement story of granite from Howard County, the entire exterior is constructed of white marble from the town of Cockeysville in Baltimore County.<sup>519</sup> The Calvert Street facade is especially outstanding, “with its heavy basement entrance and frowning lions over each doorway, its ornate bronze doors, and the beautiful loggia, with its massive monolithic columns supporting the ornate entablature above, which, with the marble balustrade, encircles the entire building.”<sup>520</sup> Perhaps the most striking feature of the exterior are the eight monolithic columns that were employed in the construction of the loggia. Each Ionic column weighs 35 tons and measures more than 31 feet in height.<sup>521</sup> It is believed that larger monolithic marble columns do not exist elsewhere in the world. Each of the columns is seven feet taller than those surrounding the United States Capitol.<sup>522</sup>



*Commemorative engraving for the opening of the new Baltimore City Courthouse in 1900.*

The interior of the courthouse is striking also. Among its many historic courtrooms, the Supreme Bench Courtroom is "truly unique in all the world."<sup>523</sup> A coffered dome, a miniature version of the one over the main reading room of the Library of Congress in Washington, D.C., is supported by walls and sixteen columns of Sienna marble from the Vatican quarry near Rome. Although the quarry was nearly exhausted at the time, Pope Leo XIII agreed to its use in this building at the request of James Cardinal Gibbons.<sup>524</sup>

Housed in this courthouse is one of the oldest private libraries in the state of Maryland and one of the most complete and comprehensive law libraries in the country.<sup>525</sup> The main room is paneled in English Oak under a barrel vault ceiling punctuated by forty art glass skylights. Fourteen medallions set in the east and west walls represent the trademarks of European printers immediately after Gutenberg. Its rare book alcove features one of the first law books ever printed.<sup>526</sup>

Also of note are the murals in the St. Paul Street lobby depicting six great lawgivers of antiquity. The great artist John LaFarge in 1906 and 1907 produced these murals of Moses, Lycurgus, Confucius, Justinian, Numa Pompilius, and



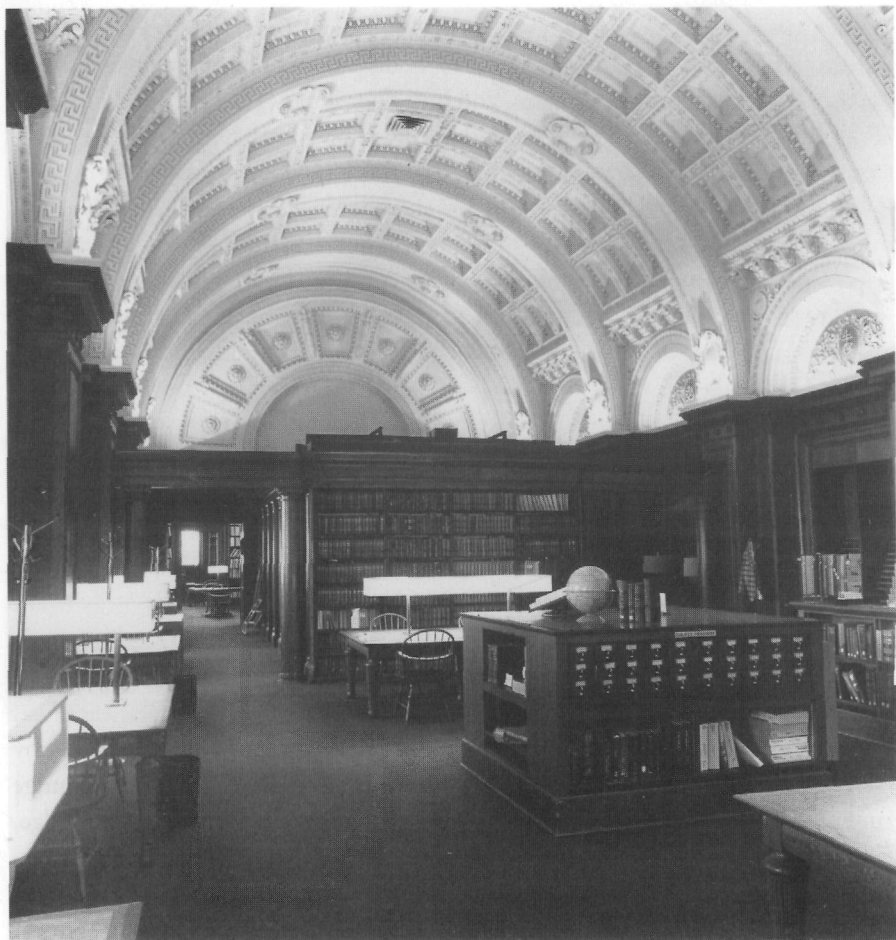
*View of the Great Baltimore Fire of 1904. Photograph circa 1904, Maryland Historical Society. An arrow identifies the corner of the 1900 Courthouse, which survived the devastating fire.*

Mohammed, among his last works. The murals and statues stirred the interest of various civic organizations who offered several prizes to enhance the competition for artists.<sup>527</sup> Other artists whose work is represented in the building are C.Y. Turner, Edwin Blashfield, and Jean Paul Laurens.<sup>528</sup>

During the first half of the century, there were many piecemeal changes and alterations;<sup>529</sup> however, in 1946, a new master plan was proposed to meet the challenges for housing an expanding court system.<sup>530</sup> The building of 1900 did not have the capacity for the increased level of work that was being done in the courthouse as Baltimore continued to expand its position as the commercial and legal center of the state. The most significant aspect of these plans was the proposal to increase the floor space of the building some 50,000 feet by adding a third and fifth floor and installing usable spaces into the atrium that had brought natural light into many of the courtrooms and other public spaces of the building.<sup>531</sup>

The courthouse was dramatically remodeled in the early 1950's in response to the need to increase its facilities. Between 1950 and 1952, Phase I of the master plan was completed. It included the installation of new passenger elevators and central north-south corridors, a new freight elevator, infilling floor areas to complete hallways on the third and fifth floors, and infilling the east lightwell.

Between 1952 and 1954 Phase II of the master plan was completed, which included the west lightwell infill, expansion of the present third floor southeast perimeter floor area, and suspended and surface mounted ceiling tile and floor finish modifications. In 1955 alterations to the steam heating system were made, and in 1956 an air conditioning system was added for the first floor and Bar Library. In 1957 the third floor mezzanine at the present jury assembly was expanded, and in 1958 renovations were made to the north half, west lightwell infill, and third floor.



*Bar Library in the Clarence Mitchell Courthouse, restored in 1975. Photograph 1985 by R. Holden. Retention of nominal appearance fees paid by litigants' counsel in Baltimore City funded the extensive renovation and expansion of the Bar Library in the 1970's. As a result the Bar Library is a first rate research resource for solo or small practitioners and large firms alike. The ornate vaulted ceiling of the main reading room provides an inspiring setting for reading law.*

Between 1959 and 1960 renovations were made to the second floor south perimeter offices; modifications were made to the fourth floor northwest courtroom; a new small fourth floor south perimeter courtroom was added; a new sixth floor northeast courtroom was added; and miscellaneous third floor mechanical and electrical work was performed.<sup>532</sup> While deemed necessary at the time to keep up with increased demands on the court's infrastructure, many in the legal community view this remodeling of what would later be known as "Courthouse West" as architectural assassination; some still advocate complete restoration of the original building.

Renovation continued throughout the 1960's and 1970's. In 1964 Phase III of the master plan was completed by floor plan modifications to first floor juvenile areas, the third floor State's Attorney's area, and fifth floor library areas. In 1967 Phase IV of the master plan was finished. The work included the fourth floor northeast courtroom, jury and judges chambers, along with the fifth floor northeast corner and Lexington Street perimeter offices. In 1977 alterations were made to the second and third floor Lexington and Fayette Street offices, the fourth and fifth floor Saint Paul Street side, and east lightwell infill area offices.<sup>533</sup>

Between 1971 and 1977, as various alterations were made, an eight story office building known as 227 St. Paul Place was used as the Baltimore City Courthouse Annex. Housed in this annex were the Parole and Probation Department, the State's Attorney's Office-Collateral Division, Child Support and Enforcement, the Sheriff's Department, and a lockup. The Annex also housed several courtrooms. Among the inconveniences in the Annex were the uncertain elevator, the location of the court clerk in the main courthouse building, the hazard in transporting prisoners, and thin walls that allowed conversations to be overheard.<sup>534</sup>

During his tenure on the Supreme Bench of Baltimore City, 1973-1984, Administrative Judge Robert L. Karwacki established a courthouse renovation committee, chaired by Judge John Carroll Byrnes, who, on April 10, 1986, organized the Baltimore Courthouse and Law Museum Foundation, Inc. Judge Karwacki was also a proponent of the Museum of Baltimore Legal History, founded in 1984 by General Philip Sherman, Esq. and the Bench Historian, U.S. Bankruptcy Judge James F. Schneider, with the active support of his successor as Administrative Judge, Joseph H.H. Kaplan. The Museum, located in the Mitchell Courthouse in the former Orphans' Court of Baltimore, chronicles the history of the Baltimore Bench and Bar, with exhibits focusing on the City's courthouses as well as "famous firsts" of minorities and women in the law.

Judge Kaplan has left a structural mark as well. In 1984 under his direction the historic Supreme Bench Courtroom 600 was restored, and the old Orphans' courtroom was refurbished to house the Museum of Baltimore Legal History. Judge Kaplan also oversaw the complete restoration of the old Criminal Court Lobby of Courthouse West. New lighting and marble flooring complement the original marble balustrades in the lobby, and restored glass skylights sit above stairways on either side of it. In Courthouse West, during the decade 1978 to 1988, restoration of the Criminal Courts Lobby, the stair skylights, the Supreme Bench Courtroom, and the Bar Library continued. There was a partial asbestos abatement, renovation to the first floor juvenile areas, renovation of elevators, and the installation of period lighting.<sup>535</sup>

After the judges of the United States District Court for the District of Maryland moved to their new building at 101 West Lombard Street in November, 1976, the



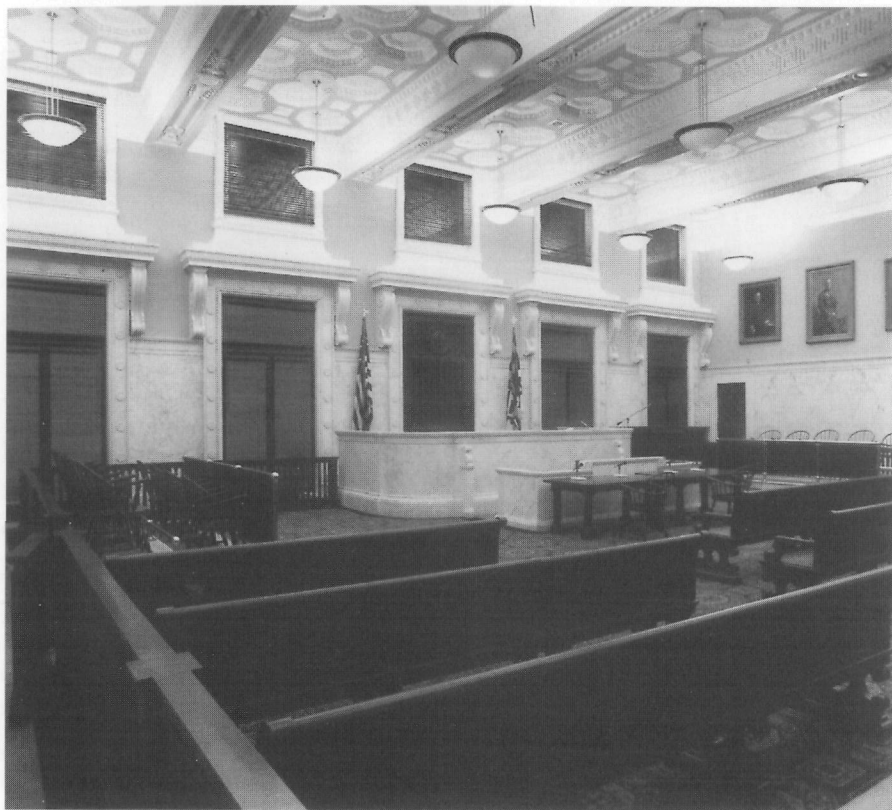


*Elliptical Supreme Bench Courtroom 600 in the Clarence Mitchell Courthouse. Photograph 1993 by R. Holden. The classical and Egyptian Revival decoration of this room makes it one of the most beautiful courtrooms in the country. Twenty-four giants of Maryland's early bar are named and honored on the frieze above the columns.*

United States Government, on December 28, 1978, deeded the old U.S. Post Office and Courthouse to the City of Baltimore to house the expanding facilities of the Circuit Court, including Clerk's Offices, courtrooms, judges' chambers, and other offices. This building, opened in May 1932, is now known as Courthouse East.<sup>536</sup> Twelve years later, Administrative Judge Kaplan organized the renovation of the entire second floor, and six new courtrooms on the second floor of Courthouse East were dedicated on March 24, 1990.<sup>537</sup> The courtrooms included state-of-the-art audio-video recording equipment and spacious and elegant accommodations. Judge Kaplan pioneered the installation of audio-video equipment in the circuit's courtrooms as the court reporters assigned to them retired. In 1996, the Court's Medical Services offices were relocated on the first floor of Courthouse East.

On March 8, 1985, Courthouse West was rededicated in an elaborate ceremony attended by Supreme Court Justices Thurgood Marshall and William O. Brennan, Governor Harry R. Hughes, and Mayor William Donald Schaefer, as well as hundreds of elected officials, citizens, judges, lawyers, and members of the Mitchell family, including the widow of Clarence M. Mitchell Jr., Juanita Jackson Mitchell.





*Ceremonial Courtroom 400 in the Clarence Mitchell Courthouse.  
Restored in 1994. Photograph 1994.*

Named the "The Clarence M. Mitchell, Jr. Courthouse," in honor of the Baltimore-born national civil rights leader who died in 1984, it contains a tribute to him in the Saint Paul Street lobby.<sup>538</sup> In 1991 in the Mitchell Courthouse, Kaplan also oversaw the renovation of Room 400, the former Superior Court of Baltimore, which was financed by the members of the Bar Association of Baltimore City (organized by a Bar committee chaired by Joseph K. Pokempner),<sup>539</sup> in conjunction with the Baltimore Courthouse and Law Museum Foundation. The courtroom was restored at a cost of \$400,000; and in addition to being a fully functional venue for court proceedings, Room 400 continues to serve as the Circuit Court's Ceremonial Courtroom. More recently, Judge Kaplan initiated significant improvements to the juvenile and jury assembly areas in the Mitchell Courthouse.

A marriage ceremonial room in the Mitchell Courthouse, designed by the multi-talented Mary B. Widomski, Deputy Court Administrator, was opened in 1996. Financed by the Baltimore Law Museum and Courthouse Foundation it was necessitated by the reactivation of Room 600, where marriages had previously been sol-

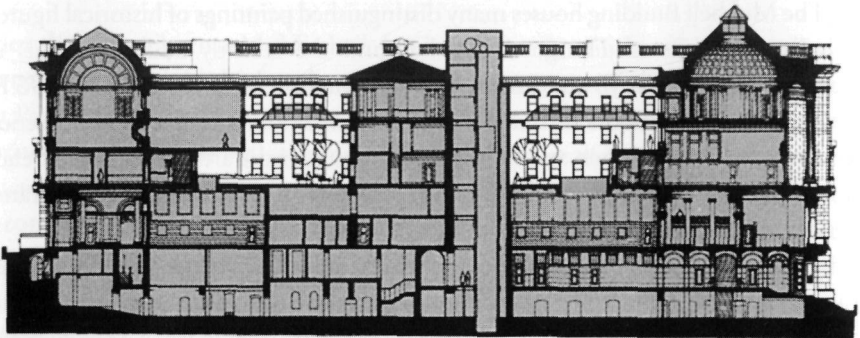
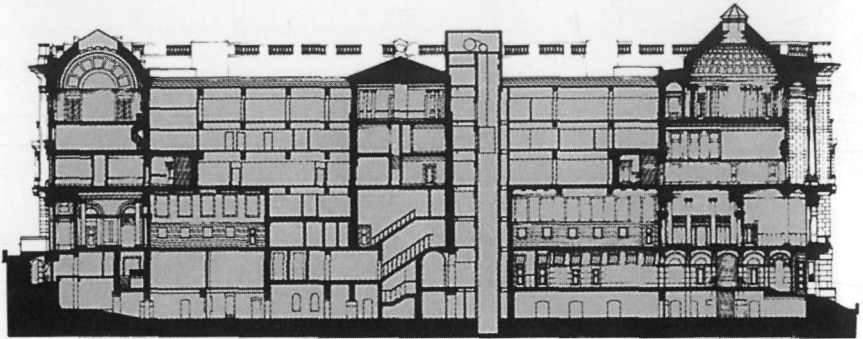


*Dedication Ceremony of the Clarence M. Mitchell, Jr. Courthouse. Seated in the foreground from left to right are U.S. Supreme Court Justices William Brennan and Thurgood Marshall, and U.S. District Court Judges Frank Kaufman and Rozel Thomsen.*

emnized, because of the need for more courtroom space for the four new judges authorized in 1996 and 1997. Another former courtroom, The Lawyer Conference Room No. 434, was reactivated for this same reason.

The Mitchell Building houses many distinguished paintings of historical figures, including portraits of Thurgood Marshall and the recently added portraits of Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, commissioned in 1996 by the Baltimore Courthouse and Law Museum Foundation. This excellent collection is maintained by the Bench and the Foundation, under the artful eyes of the Bench Historian, U.S. Bankruptcy Judge James F. Schneider and his talented collaborator, General Phillip Sherman, Esquire.

A Master plan for further renovation of the Clarence M. Mitchell, Jr., Courthouse was proposed in 1989.<sup>540</sup> The plan envisions the restoration of the Mitchell Building in the spirit of its original design, at a cost of \$68,000,000, an amount that has no doubt escalated substantially since 1989. Substantial renovation has been thwarted by the absence of agreement between the City and the State as to which should bear ultimate responsibility for the Circuit Court. Despite these obstacles, progress continues towards courthouse facilities which are in keeping with the spirit of these words, spoken by Chief Judge Henry D. Harlan when the keys to the newly constructed (now Mitchell) Courthouse were delivered to the Mayor of Baltimore City on January 8, 1900:



*Longitudinal Cross-sections of the Clarence M. Mitchell, Jr. Courthouse in 1900 (original), 1989 (present) and proposed after renovation. The original design was a figure eight with two interior courtyard/atriums that brought light throughout the building. Construction of additional interior eventually closed both courtyard/atriums, leaving much of the interior rooms without natural light. Proposals for the renovation of the Courthouse include substantially reopening the interior courtyard/atriums.*



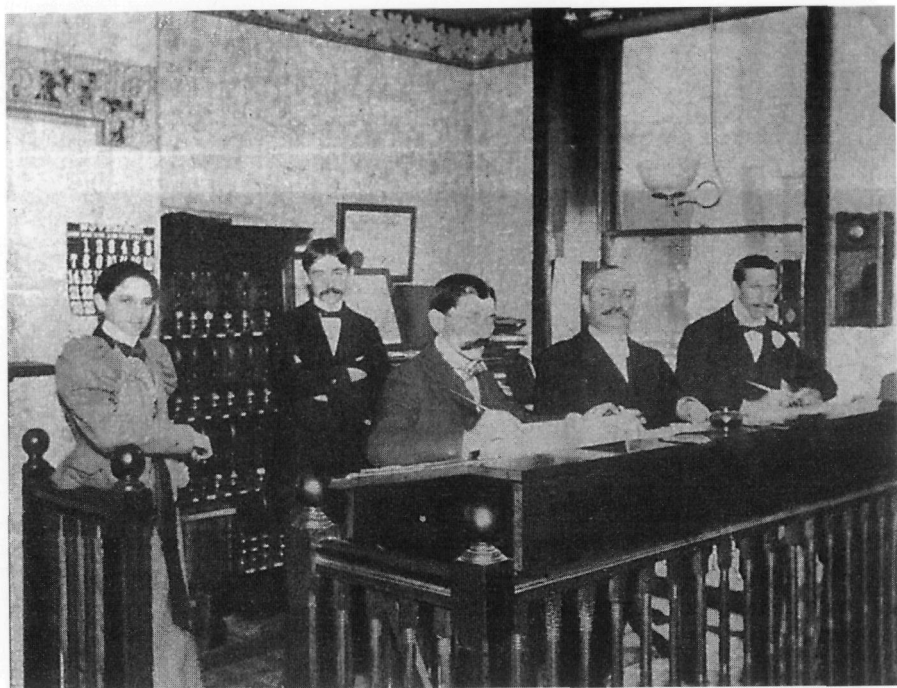
*View of the traditionally formal and majestic U.S. Fourth Circuit Court of Appeals and U.S. District Ceremonial Courtroom in the former U.S. Courthouse, now Courthouse East. Circa 1976.*



*View of the classically inspired renovation of the second floor reception hall for courtrooms in Courthouse East. Photograph copyright 1990 Tom Guidera III.*

This house is the people's house. It is sacred to Justice. It is here that the safeguards of the lives, the liberties, and the prosperity of the people are to find their enforcement. It is here that right is to be vindicated, wrong redressed, oppression rebuked, the law maintained.<sup>541</sup>

Chief Judge Harlan and other speakers at the dedication and earlier, in 1896 at the cornerstone laying, referred to our Courthouse as a "temple of justice." Both the Mitchell Courthouse and the more recent Courthouse East are indeed temples of justice.



*The Magistrate's Court of Abraham Fisher, at 16 East Lexington Street, November, 1909. Judge Fisher is seated in the center of the bench.*

# CHAPTER THREE

## A Brief History of the District Court of Maryland for Baltimore City

*By John M. Glynn, Judge*

*District Court of Maryland for Baltimore City*

THE HISTORY OF COURTS OF LIMITED JURISDICTION in the State of Maryland is largely a history of the system of Justices of the Peace inherited from England.<sup>542</sup> The first Justice of the Peace in Maryland was appointed in 1637.<sup>543</sup> Only in the past few decades has this informal court system evolved into a constitutional court. That evolution in Baltimore and elsewhere in Maryland has proceeded by fits and starts and has varied in response to the needs of time and place.

In 1835 the French observer de Tocqueville noted: "The Americans have adopted the English system of Justices of the Peace, depriving it of the aristocratic character that distinguishes it in the mother country."<sup>544</sup> However, in typical American fashion, the process evolved in a less dignified and orderly way than in England where the Justice of the Peace system still exists. In the United States the ownership of property has played a much smaller role in the structure of Courts than in England, where many courts were rooted in the ownership of land. Perhaps for this reason inferior courts in Maryland were more susceptible to integration into a general court system.

A cynical comment on the quality of Justices of the Peace in the United States was summed up in this verse:

I am important in the county  
I am a Justice of the Peace  
and I disbelieve defendants  
when they contradict the p'lice.<sup>545</sup>



The Maryland Constitution of 1776 contained no provision defining Justices of the Peace except to allow them to serve as members of the General Assembly.<sup>546</sup> From the beginning Justices were not viewed as members of the judiciary. Rather, they were an informal fact of colonial life casually carried over into the new independent nation as part of a County Court system.<sup>547</sup> This was pointed out in the 1802 case of *Whittington v. Polk*, that emphasized that the service of Justices in the legislature was inconsistent with the theory of separation of the branches of government.<sup>548</sup> An 1805 constitutional amendment provided that justices would be required to possess "sound legal knowledge," but need not be lawyers.<sup>549</sup> One of their functions was noted in the following 1816 appropriation: "*For the Justices of the Peace that may be appointed to receive the report of the night watch for the ensuing year, a sum not exceeding three hundred dollars.*"<sup>550</sup> In 1835 a state law provided that lay magistrates would be appointed Justices of the Peace with three being appointed within each election district.<sup>551</sup> In some counties and the City of Baltimore these Justices later were referred to as Magistrates. Under any name, this system remained largely in effect until 1860 with many provisions continuing until the adoption of the Trial Magistrate System in 1939.

Justices of the Peace generally were not equipped with contempt powers, and appeals were invariably *de novo*.<sup>552</sup> Interestingly, Justices of the Peace generally were not immune from liability for various intentional acts committed in the performance of their duties.<sup>553</sup>

The Constitution of 1851 granted Justices of the Peace new powers but the justices were required to be elected popularly.<sup>554</sup> Subsequently, the Constitution of 1864 eliminated this provision in favor of one providing for the appointment of Justices by the Governor with the advice and consent of the Senate,<sup>555</sup> bringing to a conclusion a brief period of popular election of Justices of limited trial jurisdiction.

After the adoption of the Constitution of 1867 there was a progressive expansion of the criminal jurisdiction of Justices of the Peace. In 1880, for example, the legislature gave Justices concurrent jurisdiction in all cases of assault without felonious intent, petty larceny cases involving less than \$5.00, all misdemeanors not punishable by confinement in the penitentiary, as well as jurisdiction in all offenses where there was a requirement of imprisonment in jail or in the House of Correction. In 1884 in the case of *Danner v. State*,<sup>556</sup> the defendant was charged with stealing one dollar worth of corn. The statute was found to be unconstitutional because it provided to Justices of the Peace the power to try the offense of Petty Larceny, then viewed as a felony.

The first reference found to the creation of the system of "Police Justices" occurs in 1882 when the City of Baltimore placed Justices in each Police Station in the City and granted them somewhat limited jurisdiction<sup>557</sup> over offenses such as disturbing the peace and crimes punishable by fines of less than \$100.00. Police Court Justices in the City of Baltimore were not permitted to impose a sentence of more than one year.

In 1902, Magistrates in the City of Baltimore were authorized to adjudicate juvenile matters.<sup>558</sup> This practice has been largely abolished except in Montgomery County where juvenile trials are in the District Court by legislative exception to the general circuit level practice.

A series of Court of Appeals decisions challenging the Peoples Courts in Salisbury and Cumberland as well as the system of Police Justices of the City of Baltimore came down during the 1930's; and although they were unsuccessful, they triggered a reevaluation of the system.<sup>559</sup>

In 1938 a Maryland State Bar Association Committee studied the system. Of the 128 to 130 Justices of the Peace sitting in the City of Baltimore; two were appointed for the Juvenile Court and three served in Traffic Court. Of the remaining, 12 served from each legislative district, and 53 were appointed At Large. From this large number of justices, the Governor selected five to serve as Justices of the Peoples Court and ten to serve as Police Justices. When the Governor submitted to the legislature the nominations for Justices of the Peace, he would not indicate which of the various justices would serve in which positions. In other words, at legislative confirmation, the expected judicial role of each particular appointee went unstated.

## Magistrates

In 1939 a commission appointed by Governor-elect Herbert R.O'Connor recommended the creation of a Trial Magistrate System as a solution to the existing system, which depended on fees and fines to support its costs,<sup>560</sup> viewed as depriving the system of independence and credibility. In his inaugural address the Governor described this system as "justice at a price."<sup>561</sup>

Later that year the Governor proposed that one or more central courts be established for each county for the trial of certain criminal and civil cases. His proposal was enacted recasting the Justice of the Peace System, but it was a limited reform since the appointed justices continued to have no constitutional status. These trial magistrate-justices were appointed by the Governor and confirmed by the Senate for terms of two years and were not required to be lawyers. Judicial business was concentrated in a smaller number of Justices who were identified before appointment. Adequate salaries were provided, and the much criticized support by fees and fines was eliminated.<sup>562</sup>

The system was still criticized for its political mode of selection, for the absence of professional standing on the part of the justices, and the lack of any orderly administration and central rule-making function. For example, it was customary for some magistrates to be joined on the Bench by police officers who were intended to assist them, but who often, not surprisingly, influenced the decision.<sup>563</sup> However, the system did withstand judicial attack.<sup>564</sup>

## Peoples Court

The product of a movement beginning in 1909, the Peoples Court in the City of Baltimore was officially established in 1912 by legislation which authorized the Governor to appoint 101 Justices of the Peace. Of those he could designate one "presiding Justice of the Peace of the People's Court" and four associate Justices to serve in the City of Baltimore as salaried Judges of the Peoples Court.<sup>565</sup> The Peoples Court had limited jurisdiction over civil matters.

However, the Peoples Court system was described with the following comment by one knowledgeable observer: "the Justice of the Peace system is so bad that the magistrates in the Police Courts do not even have any respect for the Supreme Bench."<sup>566</sup> If litigants felt there was something fishy going on, this could be explained by the fact that the Peoples Court Building was located an appreciable distance from the center of the city on the second floor of a produce market opposite a fish market. Purportedly the odors of fish permeated the Courtroom.

In 1939 a constitutional amendment<sup>567</sup> was introduced and approved by a wide margin providing for the appointment of three judges to the Peoples Court by the Governor plus additional judges as might be provided by law. This amendment granted the judges of the Peoples Court status as constitutional judges. In 1943 the jurisdiction of the Court was expanded to include all actions over which Justices of the Peace had jurisdiction.<sup>568</sup>

## Municipal Court

The 1939 legislation establishing the Peoples Court of Baltimore City as a Constitutional Court for certain civil cases did not reform the adjudication of criminal offenses by the Police Justices of Baltimore City. Numerous bills attempting such reform were routinely defeated by the General Assembly as a result of the substantial opposition of the Baltimore City delegation.<sup>569</sup> After Governor J. Millard Tawes was inaugurated in 1959, a renewed effort was made resulting in a constitutional amendment creating the Municipal Court of Baltimore City with eleven judges required to be lawyers appointed by the Governor and elected on a non-partisan ballot to ten-year terms. This Court, the Municipal Court of Baltimore City, was to take over the pre-existing jurisdiction of the Police Justices and the Traffic Court Justices. The constitutional amendment passed by a wide margin in 1960, effective the first Monday in May of 1961.<sup>570</sup>

The Municipal Court enabling legislation was petitioned to referendum by various political organizations who preferred the pre-existing Police Magistrate system and, presumably, by friends of the Police Magistrates themselves.<sup>571</sup> A special session of the General Assembly was called in the Spring of 1961 to deal with the sit-



*1995 Photograph of Judges of the District Court of Maryland for Baltimore City. Top Row, left to right: Judges Kathleen M. Sweeney, Teaette S. Price, Theodore B. Oshrine, David Young, Alan J. Karlin, Barbara Baer Waxman, Jamey Hochberg Weitzman, C. Yvonne Holt-Stone, Gale Rasin Caplan, Norman E. Johnson, Jr., Nancy B. Shuger, and John M. Glynn. Bottom row, left to right: Judges H. Gary Bass, Charlotte M. Cooksey, Alan Lipson, Alan M. Resnick, Administrative Judge Mary Ellen Rinehardt, Martin A. Kircher, Richard Motsay, George Helinski, and Keith E. Mathews.*

uation. The proposed Municipal Court was attacked as an expression of the "Hamiltonian concept of government" essentially removing the judicial power from the citizenry. Eventually, however, the referendum signatures were invalidated, and the system went into effect.<sup>572</sup>

## The District Court of Maryland

The creation of the current District Court system as it exists today was partially a response to traffic court scandals leading to Grand Jury and Bar Association investigations resulting in the removal from office of two Maryland Municipal Court judges. The first outline for a statewide system was proposed in a 1966 Special Report of the Committee on Judicial Administration of the State Bar Association.<sup>573</sup> The 1967 Constitutional Convention responded to these efforts at reform by proposing a new statewide District Court system similar to that proposed by the Bar report.<sup>574</sup> When the Constitution was rejected by the voters in 1968, Governor Marvin Mandel proposed to the General Assembly constitutional amendments creating a statewide District Court of Maryland.<sup>575</sup> These proposals were similar to those of the rejected Constitution. This system was ratified by voters in the general election of 1970 and

came into existence July 5, 1971. The new District Court of Maryland, which replaced the magistrate system, allowed the adjudication of litigation by professional jurists at a great savings of both time and expenditure to litigants and the state.<sup>576</sup>

For the first time a unified constitutional court for the trial of less serious civil and criminal offenses existed. When Chief Judge Robert F. Sweeney<sup>577</sup> was appointed by Governor Marvin Mandel in May, 1971 to serve at its head, the court had 35 judges from its predecessor courts and an additional 39 appointed prior to its official opening. Chief Judge Sweeney appointed the late Margaret Kostritsky as the court's first clerk and credits her for significant contributions to the early efficiency and energy of the court. Under Chief Judge Sweeney's leadership, the court grew to include one hundred judges in 35 newly-constructed or renovated facilities, twelve hundred clerks, and 210 Commissioners throughout Maryland. The District Court of Maryland has won wide respect and acclaim for its honest and efficient disposition of over two million cases annually.<sup>578</sup> In fiscal year 1996, the District Court of Maryland processed over 179,000 criminal cases, 588,000 civil cases, and 1,021,000 motor vehicle cases. In only one month, February, 1997, District 1 [Baltimore City] handled 11,248 motor vehicle cases, disposed of 5,819 criminal cases, processed 14,231 civil matters, and adjudicated 267 domestic violence petitions.<sup>579</sup> The competition for appointment to this court is typically strong everywhere in the State, giving witness to its important and honored place in Maryland's judiciary.

# CHAPTER FOUR

## The Baltimore City Court and the African American Lawyer

*By Judge Solomon Baylor*

*"God hath created mankind after His own image, and  
granted them liberty and independence"*

THIS EXCERPT FROM A JULY 30, 1791 ORATION by Dr. George Buchanan was a trumpet call to those who sought the abolition of slavery in the new Republic.<sup>580</sup> Seven years later, on September 8, 1798, the first anti-slavery society in Maryland was organized in Baltimore City.<sup>581</sup>

Traditionally, individuals and groups who allege inequality of treatment or denial of rights have turned to the courts for relief. The Maryland Court of Appeals, on December 20, 1877, considered the application of Charles Taylor, a black attorney, for admission to the Maryland Bar. The court held that "... the power of regulating the admission of attorneys is one belonging to the state and not the federal government . . ." and that the provision of the Maryland Constitution limiting admission to the Maryland Bar to white males over the age of 21 was not repugnant to the U.S. Constitution.<sup>582</sup> The Supreme Bench of Baltimore City, on March 19, 1885, however, in ruling on a petition filed by Charles S. Wilson, a black attorney, held that African American lawyers could not be denied the right to practice in its courts. Although this decision was contrary to the prior court of appeals ruling, it was never





*Judges Joseph C. Howard, Robert M. Bell (now Chief Judge of the Court of Appeals), Robert B. Watts, and Thomas E. Noel (l to r) stand before the Portrait of Justice Thurgood Marshall, October, 1991, Guill Photo. The commissioning of this portrait was organized by retired Supreme Bench Judge Solomon Baylor and the Baltimore Courthouse and Law Museum Foundation.*

appealed. Consequently, on October 10, 1885, Everett J. Waring became Maryland's first black attorney. His great-nephew, Michael Waring Lee, also a lawyer, became the first black Chief Judge of the Orphan's Court of Baltimore City in 1984.

From 1885 until the present, African American lawyers have displayed outstanding skill and talent in our courts. Although the names and accomplishments are too extensive to chronicle here, each decade produced many legal giants. The 1880's and '90's saw Everett Waring developing a healthy practice. Among other things, he fought for the right of blacks to serve on juries and successfully challenged the Maryland law that protected white babies by requiring their fathers to support them, but afforded no such protection for black babies.

George McMechen came from West Virginia to graduate from Morgan College. He later graduated from Yale Law School in 1899. He was appointed by Mayor Theodore R. McKeldin to the Charter Revision Commission Advisory Committee and also served as a member of the School Board in 1944. Warner T. McGuin, likewise a Yale Law School graduate and an early 20th-century lawyer, was highly regarded for his brilliance in law and in politics. His nephew, Robert P. McGuin, also a suc-

cessful practitioner, was an associate of the late William A.C. Hughes and Thurgood Marshall. Mr. Hughes was for many years a volunteer attorney for the Baltimore N.A.A.C.P. He was deeply involved whether it involved a question of equalization of teachers' salaries, a lynching on the Eastern Shore, or a demand for jobs in establishments that were patronized predominately by black customers. In the early 1950's, Hughes experienced an important victory in the Court of Appeals of Maryland when he successfully challenged the police department's policy of frisking black citizens for no reason. David T. Mason (now retired Judge of the Court of Special Appeals) was frisked in this manner; and through the diligent efforts of "WAC" Hughes and his associate, Benjamin Foreman (the late Judge Foreman), the appeals court rendered its decision protecting black citizens from unwarranted police harassment.<sup>583</sup>

The most notable of all the lawyers to appear before the Supreme Bench was a black Baltimore native who ascended to the pinnacle of the judiciary, serving as an associate justice on the United States Supreme Court. The legendary career of Thurgood Marshall has been chronicled in many tributes. Perhaps his most memorable case in Baltimore was in 1935, when he represented Donald Murray, a black student who sought admission to the University of Maryland Law School.<sup>584</sup> At the urging of then attorney Marshall, the Supreme Bench ruled that the University must admit Mr. Murray, who later became a prominent attorney.

Although the court had protected the right of African Americans to practice law and to attend the state's law school, the Bar Association of Baltimore City refused to accept women or black lawyers as members. Being keenly aware of the importance of continued education and of an organized bar, the local black attorneys in the early 1930's formed the Monumental City Bar Association, which was incorporated in 1935. Among the organizers were Robert and Warner T. McGuin, George Evans, Karl Phillips, W. Ashby Hawkins, Emory Cole, and Thurgood Marshall.

Black women entered the legal profession in 1950 when Juanita J. Mitchell and Elaine C. Davis became lawyers. The Alliance of Black Women Attorneys was formed in 1979 for the purpose of advancing the interests of African American women attorneys and improving the delivery of legal services to Baltimore citizens.

Many black lawyers have served with distinction in local and state government positions and in the State legislature. They include Harry S. Cummings, Sr., William Fitzgerald, Warner T. McGuin, Harry A. Cole, Emory Cole, Michael B. Mitchell, Milton B. Allen, Calvin Douglass, Lena K. Lee, Kenneth C. Montague, John R. Hargrove, Clay Opara, Curtis S. Anderson, Elijah E. Cummings, and former State's Attorney Kurt L. Schmoke who is now serving his third term as Mayor of Baltimore City. Schmoke was elected in 1987 as the first popularly elected African-American Mayor of the City.

For many years, persons of color were not chosen to fill any of the offices or positions in the City courthouse. This policy was consistent with a historical pattern

which unfortunately still exists in many areas. Improvement in equal employment opportunity has been slow, but steady. In the early 1930's, the first black probation officer in the person of Rev. Beale Elliott was appointed.<sup>585</sup> The employment of blacks in that department has increased continuously. Before his retirement in 1968, Harry S. Cummings, whose father was one of the earliest black lawyers in Maryland, headed that department. Milton B. Allen urged the Black Lawyer's Wives organization to protest the lack of black employees in the courthouse. Not having been successful, they urged three young black men to run for clerkships, namely Horace B. Ashby, Frank M. Conaway, and Arthur Murphy.

The City Solicitor's Office, until 1964, was located in the courthouse. When Theodore R. McKeldin, a Republican, became Mayor in 1943, he appointed Linwood G. Koger, Sr., a Republican, as an Assistant City Solicitor. Mr. McKeldin was succeeded as mayor by Thomas J. D'Alesandro, Jr., a Democrat, in 1947, who replaced Mr. Koger with Calvin Douglass, a Democrat. Douglass was one of the first three blacks to graduate from the University of Maryland Law School as a result of the Supreme Bench's ruling in 1935, which held that qualified black students could not be denied admission to that school. Mr. Douglass was thereafter elected to the House of Delegates and was replaced in the City Solicitor's Office by James L. Bundy (now retired from the District Court) in 1962.

In August 1963, during the administration of Thomas J. D'Alesandro, III, the author was appointed to that office, making it the first time more than one African American lawyer would simultaneously serve as Assistant City Solicitor. Judge Bundy recalled a move to have him leave that office when this author was appointed. He was successful, however, in resisting this effort and in keeping the position.

The late Christopher Foreman, a brilliant law student, became the first African American bailiff-law clerk in 1956. He was hired by Chief Judge Emory H. Niles, who was also a lecturer at the University of Maryland School of Law where Mr. Foreman had studied. Since then, many African American lawyers have served as law clerks to Supreme Bench and Circuit Court Judges. Both Thomas E. Noel and Martin P. Welch served as law clerks to Judge Joseph C. Howard. Each is now a member of the Circuit Court Bench.

The black presence in the City courthouse was slightly increased in 1954 when State's Attorney Anselm Sodaro (now retired Chief Judge Sodaro) appointed George Rosedom as the first African American Assistant State's Attorney. The number of Blacks in that office has continuously increased since that time, and now stands at 25 out of 154, including Patricia C. Jessamy, who heads the Office as successor to Stuart O. Simms. Mr. Simms, now the Secretary of the State Department of Juvenile Justice, succeeded Kurt L. Schmoke as State's Attorney for Baltimore City. Mr. Schmoke, a noted Rhodes scholar and collegiate athlete, had been elected to the State's Attorney's seat in his first bid for public office in 1982.

After returning from World War II military service in the Pacific and practicing law for five years, John R. Hargrove, Jr. was hired as the first African-American prosecutor on the staff of the United State's Attorney for the District of Maryland. In 1957 he became Deputy United State's Attorney. Appointed in 1962 to the People's Court of Baltimore City, in 1971 he was named by Chief Judge Robert F. Sweeney to be the first Administrative Judge of the District Court of Maryland for Baltimore City. In 1974 Judge Hargrove became a member of the Supreme Bench of Baltimore City; and, ten years later, he was sitting on the United States District Court for the District of Maryland where he continued, after retirement, as a senior judge until his death in 1997. Judge Hargrove won the respect and affection of the entire community.

Improvements proceeded steadily during the decade of the sixties in the areas of social and political change for black citizens of Maryland. In the early 1960's the law firm of Brown, Allen and Watts (Emerson Brown, Milton B. Allen and Robert B. Watts) prevailed upon Judge Emory H. Niles to declare unconstitutional the law which made it a crime for a white woman to become impregnated by a black man.

Perhaps the largest percentage of cases involving race came before the Court during the civil rights struggles of the 1960's. One of the most memorable of such cases is the case of *State v. Bell*.<sup>586</sup> In that case, Robert M. Bell, a Morgan student, now chief judge of the Maryland Court of Appeals, was arrested, tried and convicted of trespassing because he with many other students dared to demand service at a public restaurant. Judge Bell was represented by now retired Circuit Court Judge Robert B. Watts, the late Tucker R. Dearing, and Juanita Jackson Mitchell. The case was prosecuted by Robert C. Murphy, who later served as Chief Judge of the Maryland Court of Appeals, the late James W. Murphy (who was elected to the Supreme Bench of Baltimore City in 1970), and [now] Court of Appeals Judge Lawrence F. Rodowsky. The student protest challenged not only the legality of racially discriminatory public accommodations but the moral validity of such a policy. This was evidenced by the attitude of Judge Joseph R. Byrnes, the trial judge, who expressed concern that the students were acting on principle before entering a technically guilty verdict and suspending a \$10.00 fine, pursuant to the law as it then existed. The ruling was affirmed by the Maryland Court of Appeals. When the case reached the United States Supreme Court, however, the justices were divided. The case was remanded to the Maryland Court of Appeals, which, after reinstating its prior ruling, reconsidered the case on its own motion and reversed the conviction. In the meantime, a Maryland statute had been passed outlawing discrimination in places of public accommodation.<sup>587</sup>

An interesting turn of events took place in 1967 when Joseph C. Howard, a black Assistant State's Attorney, now retired from the U.S. District Court for the District of Maryland, publicly criticized the sentencing pattern in rape cases, charging that the rape of black women was taken much more lightly than the rape of white women,

especially when the defendant was a white man. Immediately, Mr. Howard became the victim of much scorn and abuse, and he was suspended temporarily. During the period of suspension, however, he made an extensive study of the rape cases which had come through the criminal court system. The Monumental City Bar Association financed the printing of his findings which were publicized in August, 1967. The disparity in sentencing was so clearly proven by the official records that the criticisms against Mr. Howard promptly ceased, and his suspension was lifted. Judge Howard's contentions were never thereafter disputed. The accuracy of his allegations and the unfair treatment given him were probably factors in his successful independent run in 1968 for a seat on the Supreme Bench. After winning on the Republican ticket in the primary, he received more votes in the general election than any of the other candidates. In that election, two incumbent judges were defeated by Joseph C. Howard<sup>588</sup> and Paul A. Dorf. Since then, several African American judges have occupied seats on the (now) Circuit Court for Baltimore City, some by appointment and some by election including Kenneth Lavon Johnson, a popular civil rights advocate and William H. Murphy, Jr., son of William H. Murphy, Sr., a highly regarded judge of the District Court of Maryland. William H. Murphy, Sr. and William H. Murphy, Jr. both achieved judicial positions without the benefit of appointment by a governor, and for the first time in the history of Maryland a father and son served in the judiciary at the same time. William H. Murphy, Jr. resigned in 1983 for an unsuccessful bid to become the City's first black mayor. He later developed a successful private practice. In 1979 Judge Howard became the first African-American to be appointed to the United States District Court for the District of Maryland.

During the sixties, the progress of African American members of the Maryland legal community also showed improvement. In January, 1966, George L. Russell, Jr., a highly respected trial lawyer who had also sat as a Magistrate, became the first African-American to be appointed to the Supreme Bench of Baltimore City.<sup>589</sup> He retired from the position in 1968 to accept an appointment by Mayor Thomas D'Alesandro, III to the position of City Solicitor. He thereby became the first of his race to sit on the powerful Board of Estimates. Since Judge Russell's term as City Solicitor, that Office has been headed by retired Judge Benjamin Brown, later by retired Judge Neal M. Janey, and currently by Otho Thompson.

Retired Maryland Court of Appeals Judge Harry A. Cole<sup>590</sup> was first appointed to the Municipal Court of Baltimore City in 1968, and soon thereafter to the Supreme Bench of Baltimore City. He was soon joined on that Bench by his boyhood friend, Robert B. Watts, a highly respected and most efficient and effective pioneer in the field of civil rights and one of the founders of the historic Black firm of Brown, Allen & Watts in 1948.<sup>591</sup> This firm subsequently became the highly successful partnership of Brown, Allen, Watts, Murphy & Russell, with an office in One Charles Center.



*Women firsts: Honorable Saundra E. Banks, Clerk of the Circuit Court for Baltimore City, Circuit Court Judge Mabel E. Houze Hubbard, Orphan's Court Judge Joyce M. Thompson, and Honorable Mary W. Conaway, Register of Wills. Gender equality and incorporation of African American leadership in the judiciary are important priorities in Baltimore City and statewide.*

*Photograph—1995, J. C. Byrnes*

Perhaps the most significant stride towards a truly representative work force in our courts occurred when former Chief Judge Anselm Sodaro in 1977 at the urging of Judges Harry A. Cole and Joseph C. Howard appointed a committee to study and make recommendations relative to the Supreme Bench's hiring practices. Pursuant to the Committee's report and recommendations, the Bench adopted a policy of filling vacancies alternatively with qualified white and qualified black persons, with the provision that if no racial designee qualified for a particular position, race would be disregarded. That policy proved to be an effective one in correcting some of the errors of the past. The policy, however, was unfortunately discontinued in 1989 by the Bench since some of its members allegedly feared that the policy would violate a 1989 decision by the U.S. Supreme Court.<sup>592</sup> The Bench continues however, to honor the spirit of its former policy.





*Charles Dorsey, Executive Director of Legal Aid, views an exhibit of the Law Museum, Photograph—1986. Mr. Dorsey was himself a pioneer in advancing availability of legal services to Baltimore's poor and underrepresented.*

The untimely death of Clarence M. Mitchell, Jr., Esquire, on March 18, 1984, created a serious void in the Maryland legal community. He was often referred to as the "101st Senator" because of his persistent, dedicated, and skillful lobbying for civil rights in the U.S. Congress. Mayor William Donald Schaefer was persuaded by the suggestion of Judge John Carroll Byrnes, son of the late Judge Joseph R. Byrnes, to re-dedicate the building formerly known as Courthouse West, as the "Clarence M. Mitchell, Jr. Courthouse." The dedication was an elaborate ceremony on March 8, 1985, which included City and State officials, Supreme Court members, federal judges, civic and religious leaders, and members of the military.

Judge Mabel E. Houze Hubbard who currently is a Judge of the Circuit Court for Baltimore City is the third female and the first female of African American heritage to hold that position. She began her term on the Circuit Court in September of 1985. She was earlier the first of her race and sex to sit on the District Court. The first African American female Orphans' Court judge was appointed to the Orphans' Court in 1994. After receiving that appointment, Judge Joyce Baylor-

Thompson was victorious in the election that followed, retaining her seat for the four year term.

The Register of Wills and the Clerk of the Court are of great significance in the overall operation of the judiciary. In 1982 Mary Conaway was the first African American and the first female elected to the position of Register of Wills. In that same election Sandra E. Banks was elected Clerk of the newly unified Circuit Court for Baltimore City, which was a consolidation of the various separate courts comprising the Supreme Bench of Baltimore City. She had been previously elected to the Baltimore City Court of Common Pleas clerkship (along with the late Elmer O. Harris, who won election to Clerk of the Baltimore City Court) in 1978. The first African American to be popularly elected to a clerkship was Paul Chester in 1970, who ran on a ticket with William H. Murphy, Sr., elected to the Municipal Court of Baltimore City, and Milton B. Allen, elected State's Attorney of Baltimore City.

On October 1, 1986, George L. Russell, Jr., in an historic and somewhat controversial move, led his successful black law firm, Russell and Thompson, into a merger with the prestigious and predominantly white firm of Piper and Marbury. In addition to gaining talented lawyers George L. Russell, Jr., Kenneth L. Thompson, and several experienced associates, the firm also obtained the services of former Judge Robert B. Watts as counsel. Prior to the merger, several African American attorneys had been associated at Piper, including Judge Robert M. Bell, Mayor Kurt L. Schmoke, and Judge Donna Hill Staton, all of whom went on to careers in public service.

Today, the vast majority of African American lawyers practicing in Baltimore City are either in small law firms, sole practices, or government law offices. The progress of African American lawyers into the established Baltimore law firms has been exceedingly slow. In the mid 1970's, Frank A. DeCosta became a partner at Weinberg & Green. He became the first African American partner in a major law firm. At the end of 1978, Mr. DeCosta left Weinberg & Green. It was not until 1986 that another African American attorney, Harry S. Johnson, became a partner in a major law firm, Whiteford, Taylor & Preston. It was reported at the time that he was the first black attorney in Maryland to join a major law firm after law school, work his way up through the associate ranks, and become a partner. He was joined there by Dana C. Peterson. Two recent appointees to the Circuit Court also achieved notable professional success. William D. Quarles was a partner at Venable, Baetjer & Howard. Evelyn Omega Cannon headed the civil division in the office of the State Attorney General.

Despite these successes, however, there are still few African Americans who are either partners or associates at the major firms. Many firms have diversity as a goal, but the current figures evidence what some perceive as a lack of genuine interest in minority hiring. The achievements of the few African-Americans who have sur-

vived in this environment should give encouragement to firms to be more active in their efforts.

Of the 28 judges serving on the Circuit Court for Baltimore City as of March 1, 1997, 12 are African Americans. On the District Court of Maryland in Baltimore City there are five African Americans out of 23 judges. Although this is not a large, nor the desired, percentage, it represents a significant improvement over the past.

In spite of the racism that persists in our society, the judiciary is expected to play a leading role in promoting the equality of opportunity for all citizens. It will do so more effectively by reason of its own diversity.

### ***Historic Bench and Bar Firsts by African Americans***<sup>589</sup>

- Admitted to Maryland Bar (Male)* E. EVERETT WARING (1885)  
*City Council (Baltimore)* HARRY SYTHE CUMMINGS (1890)  
*Assistant City Solicitor* ARTHUR E. BRISCOE (1934)  
*Law Firm* BROWN, ALLEN & WATTS (1948)  
*Admitted to Maryland Bar (Female)* JUANITA JACKSON MITCHELL (1950)  
 ELAINE DAVIS (1950)  
*Police Magistrate* E. EVERETT LANE (1951)  
*State's Attorney* MILTON B. ALLEN (1954)  
*Assistant State's Attorney* GEORGE ROSEDOM (1954)  
*Assistant U.S. Attorney* JOHN R. HARGROVE (1955)  
*Maryland Senate* HARRY A. COLE (1954)  
*Assistant Attorney General* HARRY A. COLE (1950)  
*General Counsel of U.S. Post Office* VERNON L. GREEN (1955)  
*Traffic Court Magistrate* E. EVERETT LANE (1956)  
*Judge of People's Court* E. EVERETT LANE (1958)  
*Census Director* GEORGE L. RUSSELL, JR. (1960)  
*Judge, Supreme Bench* GEORGE L. RUSSELL, JR. (1966)  
*President of Baltimore City Bar Association* GEORGE L. RUSSELL, JR. (1966)  
*Juvenile Master, Prince George's County Circuit Court* JAMES H. TAYLOR (1966)  
*Supreme Court of the United States* THURGOOD MARSHALL (1967)  
*Chief, Criminal Division, Atty. General's Office* DAVID T. MASON (1967)  
*Zoning Board* SOLOMON BAYLOR (1968)  
*Elected to Supreme Bench* JOSEPH C. HOWARD (1968)  
*Workmen's Compensation Commissioner* J. FRANKLYN BOURNE (1969)  
*Chairman, State Parole Board* DAVID T. MASON (1969)  
*Administrative Judge (District Court)* JOHN R. HARGROVE (1971)  
*State Cabinet* DAVID T. MASON (1972) (*Secretary, Department of Human Resources*)  
*Judge, Prince George's County District Court* J. FRANKLYN BUORNE (1972)  
*Orphan's Court Judge* BEN FORMAN (1972)  
*Court of Special Appeals* DAVID T. MASON (1974)  
*Court of Appeals* HARRY A. COLE (1977)  
*Liquor Board* WARNER MCGUINN  
*Associate Deputy Attorney General U.S.* LARRY S. GIBSON (1977)  
*Clerk of the Superior Court* WILLIAM ALLEN (1979)  
*U.S. District Court for Maryland* JOSEPH C. HOWARD (1979)  
*Juvenile Master (Female)* MABLE H. HUBBARD (1979)  
*Assistant State's Attorney (Howard County)* YVONNE C. HOLT-STONE (1980)  
*District Court Judge (Female)* MABLE H. HUBBARD (1981)

- Assistant County Solicitor for Howard County* JAMES E. HENSON, SR. (1982)  
*Clerk of the Circuit Court for Baltimore City* SAUNDRA E. BANKS (1982)  
*Register of Wills for Baltimore City* MARY W. CONAWAY (1982)  
*Judge, District Court Montgomery County* DeLAWRENCE BEARD (1982)  
*Judge, Circuit Court for Montgomery County* DeLAWRENCE BEARD (1984)  
*Chief Judge, Orphan's Court of Baltimore City* MICHAEL W. LEE (1984)  
*Circuit Court Judge (Female)* MABLE H. HUBBARD (1985)  
*Elected Mayor of Baltimore City* KURT L. SCHMOKE (1987)  
*Judge, Anne Arundel County (District Court)* CLAYTON GREENE (1988)  
*Judge, Baltimore County (District Court)* MICHAEL McCAMPBELL (1990)  
*Chief of Civil Litigation, Office of the Attorney General* EVELYN OMEGA CANNON (1991)  
*Deputy Attorney General of Maryland* NORMAN E. PARKER, JR. (1993)  
*Judge, Prince George's County (District Court)(Female)* SHEILA TILLERSON (1993)  
*Judge, Orphan's Court of Baltimore City (Female)* JOYCE M. THOMPSON (1994)  
*President, Women's Bar Association of Maryland* TONI CLARKE (1994)  
*State's Attorney (Prince George's County)(Female)* TONI CLARKE (1994)  
*Secretary, State Dept. Of Juvenile Justice* STUART O. SIMMS (1995)  
*Circuit Court for Howard County* DONNA HILL STATON (1995)  
*State's Attorney for Baltimore City (Female)* PATRICIA C. JESSAMY (1995)  
*Chief Judge, Court of Appeals of Maryland* ROBERT M. BELL (1996)  
*United States Magistrate Judge* CHARLES B. DAY (1997)  
*President, Bar Association of Baltimore City (Female)* PAMILA J. BROWN (1997)



*Portrait of United States District Court Judge Shirley B. Jones, by Henry Cooper—1980. Judge Jones was the first woman appointed to the then Supreme Bench of Baltimore City in 1961. Eighteen years later, she became the first woman to be appointed to the United States District Court for the District of Maryland, when President Carter appointed her to that bench. She served with distinction on that bench until her retirement.*

# CHAPTER FIVE

## Women of the Baltimore Bar

*By Joan Bossmann Gordon*

*Historian, Women's Bar Association of Maryland, Inc.*

THE HISTORY OF THE WOMEN OF THE Baltimore area legal community is truly a story of the determination and accomplishments of the women lawyers of Maryland who fought for an equal opportunity to pursue justice with their male brethren. The women and men lawyers of today have inherited a rich tradition and history that actually began some three hundred years before women were admitted to membership in the Bar Association of Baltimore City.

Margaret Brent, the first woman lawyer in North America, arrived in St. Mary's County, Maryland in 1638. By 1648 she represented the Governor and, as such, believed she should have a "vote and voyce" in the Maryland General Assembly. The records of the proceedings tell us what happened when she made that demand:

Friday 21st. January came Mistress Margaret Brent and requested she have vote in the House for herself, and voyce also, for that att the last Court, 3rd. January, it was ordered that the said Mistress Brent was to be looked uppon and received as his Lordship's Attorney. The Governor denied that the said Mistress Brent should have any vote in the House. And the said Mistress Brent protested against all proceedings in this present Assembly unless she may be present and have vote as aforesaid.<sup>594</sup>



Frequently addressed in court records as "Gentleman Margaret Brent," she entered her appearance in one hundred twenty-four cases in eight years.<sup>595</sup> Unfortunately, the trail blazed by Brent was overcome by discriminatory weeds such as these published by the editors of a turn-of-the-century legal magazine:

The simple truth of the matter is that women as a class are not endowed by their Creator with either the physical or mental attributes which fit them for a legal career. There may be a few marked exceptions, but the average intelligent, cultured and educated woman is no more fit for the practice of law than the ordinary male is for the position of leading soprano in a church choir . . . women are doing nobly their part of the world's work in countless lines of human endeavor, but as lawyers they never were and never will be a success.<sup>596</sup>

It would be more than one hundred fifty years before Maryland would allow another woman attorney, Etta H. Maddox, to practice law in Maryland.<sup>597</sup> Maddox's request in 1901 to take the state bar examination was denied by the Maryland Court of Appeals. The Court, however, did invite the General Assembly to enact legislation if it believed that the citizens of Maryland wanted women to be allowed to practice law. The legislature obliged the following year, passing legislation that extended the privilege of practicing law in Maryland to women. In 1902 Etta H. Maddox is credited as the first woman to be admitted formally to practice in Maryland.<sup>598</sup>

The following year Emilie Doetsch graduated from Goucher College and applied for admission to the University of Maryland School of Law. Her application was rejected because of her sex. She turned to the Baltimore Law School (later the Mount Vernon School of Law, and eventually the University of Baltimore School of Law) and received her law degree from that institution in 1906, becoming the second woman to pass the Maryland State Bar examination. Unable to secure a position as a lawyer, Doetsch became a reporter for the *Baltimore News*.<sup>599</sup>

Fifteen years after Maddox's 1902 admission to the Maryland bar, Sarah Rosenberg Burke made application to the University of Maryland School of Law. The reason given for the denial of her application was the lack of toilet facilities for women. Burke persevered, and in 1920 she was one of four "ladies" to begin degree studies at that law school. However, Burke and her female classmates were required to use toilet facilities at the hospital across the street from the school. One of Burke's classmates, Jeannette Rosner Wolman, reported in a 1986 interview that although there was no discrimination against the women in the law school classes, there was no communication between the male and female students.<sup>600</sup> When women graduated from the law school in 1924, there were few professional opportunities for them and few experienced women attorneys with whom to share their experiences. It was not uncommon, according to Wolman, for female attorneys to be offered jobs as legal secretaries or clerical workers; therefore, they set out on their own as sole practitioners.<sup>601</sup>

The women also faced discrimination from clients. Wolman is fond of telling younger professional women about her early years of practice. Once a male client tried

to compensate her for her successful representation of him with a pair of silk stockings. "He was very happy that I won his case for him, but his jaw dropped when I handed him the bill," reports Wolman. "He told me that he thought women were in law to find a husband and to keep themselves busy until children came along, and didn't need to charge clients for their legal services."<sup>602</sup> It is not surprising that after three short years of law practice, Burke and Wolman found themselves joining several other women to form the first professional association of women attorneys in Maryland.

The *Baltimore Sun* on April 12 and May 2, 1927 announced that the Women Lawyer's Association of Maryland was organized for the purpose of "promoting fraternalism and an interchange of ideas," after four of its seven founding members, including Burke and Wolman, applied for, and were denied membership in the Maryland State Bar Association. Other Association founders were Henrietta Stonestreet (president), Ida Kloze, Adelaide Lindenberg, Goldie Miller, and Helen Sherry. On April 11, 1927, fifteen women lawyers assembled for the first official meeting of the group.<sup>603</sup> Another woman lawyer's group was established in 1929 after Stonestreet, Doetsch (who in 1928 had become Baltimore's first female Assistant City Solicitor), Sherry (the first woman to try a case before the Court of Appeals), and Marie Presstman applied for and were refused membership in the Bar Association of Baltimore City. These four founded the Women's Bar Association in February, 1929 to promote women's eligibility for membership in state and national bar associations. On February 20, 1929 *The Baltimore Sun* quoted Stonestreet as saying that the four women had applied for membership in the Bar Association of Baltimore City to test whether that association truly represented the Bar of Baltimore City. The Association campaigned for the appointment of women lawyers to various legal positions, including an unsuccessful attempt in 1934 to have Sophie Nordenholz appointed to the staff of the Maryland Attorney General's Office. By 1936, the Women Lawyers Association had merged into the Women's Bar Association of Baltimore City which had forty members who met regularly in one another's homes to present papers on a variety of timely legal topics.

Over the years, Zetzer and Wolman repeatedly sought membership in both the Maryland State and Baltimore City Bar Associations. By June, 1944 the Maryland State Bar Association remained the only state bar association in the country that continued to deny membership to women, despite the fact that as early as 1927 other bar associations such as the American Bar Association had voted to admit women members. But the women were undaunted. October 22, 1946, after more than 15 unsuccessful applications, Rose Zetzer was finally accepted by the Maryland State Bar Association as its first woman member.<sup>604</sup> Throughout their careers, both Rose Zetzer and Jeannette Wolman continued to encourage women lawyers to join the Association. In addition to its efforts to win admission to state and local bar associations, the women lawyers in Baltimore City campaigned during these years to secure

the right of women to serve on juries. In 1947, a partial Women's Jury Service Bill was finally passed by the Maryland General Assembly.<sup>605</sup>

In 1950 the Women's Bar Association campaigned for the appointment of Zetzer and Helen Elizabeth Brown to the Supreme Bench of Baltimore City. An advocate for women's rights since the early twentieth century, Brown, like Doetsch, worked as a newspaper reporter. As a reporter for the *Baltimore Post*, Brown was the first female reporter assigned to the courthouse beat. She loved the law, covering the courts as a reporter by day, and attending law school at night. She began the practice of law in 1926, combining her interest in law with her interest in politics. She was a member of Baltimore's Seventh Ward Women's Republican Club, served as president of the Maryland branch of the National Women's Party, and traveled the country campaigning for civil rights for women.<sup>606</sup>

Stonestreet was also active outside the Baltimore area and represented the WBA at a conference of the International Federation of Women Lawyers held in Rome. Ms. Stonestreet was one of the founders of that international federation.

Also in 1950, women began to dedicate themselves to the appointment and election of women to public office. Attorney Dorothy Jackson (Miller) was elected to the Maryland House of Delegates in 1950 and again 1954. In 1951, Brown, was appointed as Magistrate of Housing Court in Baltimore City. Brown would later advance to her most notable achievement—her fourteen year tenure as a Commissioner on the state's Workmen's Compensation Commission from 1955–1969. As the trustee of the Marjorie Cook Foundation, she funded many efforts to further equal rights for women. In the 1950s Anna Sanford was appointed the first female juvenile Master.

When women lawyers celebrated the 25th anniversary of the Women's Bar Association of Baltimore City in 1952, they were still barred from membership in the larger Bar Association of Baltimore City. Nevertheless, WBA members were among the leaders of the profession in the Baltimore area. The WBA's president in 1952, Shirley Brannock Jones, a woman of remarkable accomplishments, went on to serve as the first woman Assistant Attorney General of Maryland in 1958, as judge of the Orphans' Court of Baltimore City, and as the first woman on the Supreme Bench of Baltimore City (now the Circuit Court for Baltimore City) in 1961. In 1979 Jones became the first woman appointed as a federal district court judge for the District of Maryland, serving until her retirement in 1981.

The WBA's president in 1954 was Mary Arabian, a Baltimore attorney whose first legal work was doing real estate title searches. She eventually worked her way up the ranks of the legal profession to become a judge on Baltimore's Municipal Court (later the District Court of Maryland for Baltimore City) in 1961 and the second woman appointed to the Supreme Bench of Baltimore City (now Circuit Court for Baltimore City) in 1975. Judge Arabian would serve on the Circuit Court until her retirement in 1990. In a recent interview, Judge Arabian recalled that she had to fight her way

into law school at the University of Maryland [she would, after her retirement from the Bench, be appointed to its governing board]; and that professors would address the students as "gentlemen," despite the fact that Arabian and one other female student were present in class.<sup>607</sup> After law school, she found that although male lawyers were polite, they did not take her or other women attorneys seriously, and she worked for sixteen years as a title searcher, a job she landed upon the recommendation of her friend, Norman Ramsey, (later a judge of the United States District Court) just before he left the position to enter the Marines in World War II.

In 1955, women lawyers realized another milestone when Lucy Ann Garvey became the first female prosecutor in the Baltimore City State's Attorney's Office. In the 1940's Garvey had worked as a legal secretary for a Baltimore attorney who encouraged her to apply to law school. The University of Maryland informed Garvey that it had its "quota" of women, but the University of Baltimore accepted her for its pre-law night school program. She eventually graduated from the university's law school in 1948, but continued to work for a time as a legal secretary. After serving in the domestic relations division of the State's Attorney's Office for two years, Garvey was appointed to the criminal division, where she served from 1957 to 1966. Garvey went on to win appointment as Domestic Relations Master for the Supreme Bench where she served until her retirement in 1990.<sup>608</sup>

During the 1950's, women lawyers in Baltimore continued to pursue their goal of integrating all bar associations. In 1957, Wolman became the first woman admitted to the Bar Association of Baltimore City, the first year that black attorneys were admitted to the the city bar association. The vote was 614 to 409 to admit women and 606 to 417 to admit blacks. Juanita Jackson Mitchell, the first African American woman admitted to the practice of law in Maryland, was a champion of civil rights for blacks and women and active in Baltimore bar associations. Verda Freeman Welcome another pioneering female who, although a schoolteacher and not a lawyer, became the first black woman elected to the Maryland House of Delegates in 1958, and to the Maryland Senate in 1962 where she served until 1983.

One of the biggest issues for women lawyers in Baltimore in the 1960's and 70's was the improvement of the criminal justice system's handling of rapes and other sex offenses. Erica Gosnel and other Baltimore area attorneys testified before the Baltimore City Council's Rape Task Force, recommending the establishment of specially trained teams of police and medical professionals to deal with sexual assaults.<sup>609</sup> Baltimore's women lawyers also lobbied successfully for statutory changes and the elimination of Maryland's "Lord Hale" rule that made rape prosecutions dependent on the victim's background and "morality."<sup>610</sup>

In the 1970's the women's bar entertained sporadic discussion over the suggestion that the Women's Bar Association had achieved its goals and should become a section of the Bar Association of Baltimore City or the Maryland State Bar

Association. Association members, however, voted against such an affiliation, in part due to a lingering concern that the wider bar membership did not share the same concerns about sex discrimination against women.

The seventies were a time of promise and change for women. In 1971, women constituted only 3% of the practicing lawyers in the United States.<sup>611</sup> However, law schools across the country were opening their doors to women, and by 1980, women constituted 8% of the country's lawyers.<sup>612</sup> The women lawyers in Baltimore welcomed this promising change. During this time another group of women frustrated by statutory and regulatory discrimination against women in the workplace emerged, and in 1971 the Baltimore legal community welcomed the arrival of the Women's Law Center, Inc.

Founded by a small but dedicated group of young lawyers and law students including Bea Cohen, Ann Hoffinan, Kathleen O'Ferrall Friedman (later to become a Baltimore City Circuit Court judge), Susan Leviton (now a law professor at the University of Maryland School of Law), Ellen Luff, Geraldine Kenney Sweeney, Susan H. Tannenbaum, and Mardi Walker, the Women's Law Center was created to secure equal rights for women through litigation and to provide education and counseling in the area of women's rights. The Women's Law Center lacked staff and office space and operated out of the homes of its board members. Despite these limitations, the WLC made an immediate impact on employment law in Maryland.

In 1972, in one of its first cases, *Orner v. Board of Appeals, Employment Security Administration*, the WLC represented Rosemarie Orner, a Baltimore Symphony Orchestra harpist who was denied unemployment benefits because of her pregnancy. On Orner's behalf, the WLC successfully challenged a regulatory presumption that pregnant women were not "employable."<sup>613</sup> The Women's Law Center also represented Baltimore City school teachers in their successful efforts to abolish mandatory maternity leave at the end of the second trimester of pregnancy<sup>614</sup> and successfully challenged the height and weight requirements of the Baltimore Police Department.<sup>615</sup>

In the 1970's the Law Center was successful in encouraging *The Baltimore Sun* to cease separate male and female job categorizations in the classified section of the newspaper. In 1972, the WLC filed an *amicus* brief in support of a petitioner who challenged the legality of requiring married women to adopt their husbands' names.<sup>616</sup> In the first ten years of existence, the WLC, with a membership of fewer than seventy-five women, also provided monthly seminars on family law as a service to the community and produced a series of informative booklets for the public on topics such as consumer rights, legal rights of unmarried cohabitants, and marriage and divorce.

This active decade brought a third women's organization to the Baltimore legal community with the founding of the Alliance of Black Women Attorneys in 1979. An affiliate of the National Bar Association and the American Bar Association, the alliance created a network to enhance the professional development of African

American women attorneys. Its three major goals are the promotion of the interests of African American women attorneys, the improvement of legal skills for efficient practice, and the increase of viability and recognition of African American women attorneys.<sup>617</sup> Its first president was Jeanne Hitchcock (1979–1986). The Alliance of Black Women Attorneys has also been an active presence in the community, sponsoring scholarships, developing a mentoring program, and conducting a conference on the prevention of youth violence.

Throughout most of the 1980's the Women's Bar Association operated a lawyer referral phone line as a service to its members and those in the community who were looking for women attorneys or answers to simple legal questions. WBA members volunteered an hour of their time each month to answer "hotline" inquiries from Baltimore area citizens and, in return, were placed on the lawyer referral list. During this time, the Women's Law Center also operated a hotline phone one day a week, and its members took turns responding to questions about domestic law issues.

In 1984, twenty-seven years after the decision to admit women and blacks, the Bar Association of Baltimore City elected its first women president, Sheila K. Sachs, a partner in Gordon, Feinblatt, Rothman, Hoffberger, and Hollander, L.L.C. In 1994, she became the first female president of the Baltimore Courthouse and Law Museum Foundation, Inc.

By 1985, with women representing 13% of America's legal profession,<sup>618</sup> the WBA, WLC, and ABWA had more than 400, 150, and 30 members, respectively. In that year, the Women's Bar Association and the Women's Law Center joined forces on the issue of the need for a more diverse judiciary. Representatives of both groups met with Governor Harry Hughes to obtain his commitment to increase the number of women on Maryland's state Benches. The two organizations also met with gubernatorial candidates William Donald Schaefer and Stephen H. Sachs in 1986 and presented their concerns about the need for the appointment of more qualified women to the judiciary and other public offices in the state. WBA records indicate that in 1986 there were five women judges sitting on the Circuit Court for Baltimore City, including that court's first African-American woman, the Honorable Mabel Houze Hubbard.<sup>619</sup> That same year, there were four women on the bench of the District Court for Baltimore City.

In 1987, sensing a continuing problem of gender bias in the legal profession, the Court of Appeals and Maryland State Bar Association sponsored a Special Joint Committee on Gender Bias in the Courts to investigate the matter. The nine-person Committee was chaired by Baltimore City Circuit Court Judge Hilary D. Caplan. Men and women lawyers in Baltimore and throughout the state appeared and testified about subtle and not-so-subtle gender bias and outright discrimination experienced by them and their female clients in Maryland's courts and legal settings. The findings were published in the Committee's May 1989 report, *Gender Bias in the Courts*. After a statewide



two-year investigation, the Committee found that gender bias existed in the courts of Maryland, affecting not only women lawyers, litigants and witnesses, but the courts' decision-making as well.<sup>620</sup> The Court of Appeals is considering recommendations for amendments to the Code of Professional Responsibility dealing with harassment in the workplace and sexual relationships between clients and attorneys.<sup>621</sup>

Since the publication of the report and the Committee's findings, the state judiciary, the Bar Association of Baltimore City, the WBA, and the WLC have all developed education projects to make both lawyers and the citizens of Baltimore more sensitive to the effects of gender bias, and the boards of both the WBA and WLC have made their organizations available to field complaints from lawyer and litigants about offending members of the judiciary. In an effort to monitor the effectiveness of gender-bias education, the Women's Bar Association in 1994 initiated a week-long "Court-Watch" to observe the conduct and language of lawyers, judges, court personnel, litigants, and witnesses in Maryland's courts. The results of the program indicate that although there has been improvement, gender bias and other forms of discrimination remain a persistent presence in our courts.

Sensing a continuing, unmet need in the Baltimore community for free domestic law information and advice, the Women's Law Center initiated the Family Law Hotline in 1990 as a free service to low income people in the Baltimore metropolitan area. The program, the first of its kind in the nation, was expanded statewide with the introduction of an 800 number. The hotline, which fields calls from 3,000 people annually, demonstrated a need for affordable family law legal services. Responding to this need, the WLC began a massive fundraising project and in 1995 succeeded in opening a Family Law Center staffed by a lawyer, paralegal, and secretary to provide assistance on a sliding-scale to those who are unable to obtain affordable legal support. In 1997, The WLC and the House of Ruth received a grant through the Violence Against Women Act to create a pilot domestic violence project in Baltimore City, *The Protection Order Advocacy and Representation Project*.

As the year 2000 approaches, it is tempting to look back over the past century to try to measure how far women have advanced in the legal profession and to look ahead to calculate how much farther they need advance to realize full equality under the law and in the practice of law. Lottie Friedler, a long-time Baltimore trial attorney, champion of women's causes, and president of the WBA from 1967 to 1969, laments that young attorneys today do not understand how difficult it has been for women to advance themselves in the legal community. She worries that, "too many women lawyers today think only of their own careers, and seem to have forgotten that women still don't have full equality in all areas."<sup>622</sup>

The history of Baltimore's women lawyers is still being written, and advances are still being made. In 1991 Baltimore lawyer Louise Michaux Gonzales, became the first woman president of the Maryland State Bar Association, and in 1995

Patricia C. Jessamy became the first female to head the Baltimore City State's Attorney's Office. Yet, despite progress and despite the fact that fifty percent of law school graduates today are female,<sup>623</sup> women lawyers still constitute only 23% of all lawyers.<sup>624</sup> There are still disparities between the salaries of men and women in the legal field, and women are still noticeably absent from the partnership rolls of Baltimore's large firms. An October, 1995 *Daily Record* article reported that only 14% of the 317 partners in Baltimore's five largest firms are women.<sup>625</sup> The same article also reported that none of the largest twenty law firms in Baltimore had a female managing partner.

Sadly, gender bias in Maryland is merely reflective of the differential treatment women in law experience throughout the United States. According to the American Bar Association's Commission on Women in the Profession, women are 23 percent of all attorneys, and 28 percent of professionals in legal education. Nevertheless, women are only 19 percent of corporate general counsels, 17 percent of law school professors, 13 percent of law firm partners, and 9 percent of judges.<sup>626</sup>

In each of the past three years the WBA's Judicial Selections Committee has interviewed more than 200 candidates for judicial vacancies. This is a strong indication that women lawyers are a recognizable presence in the legal community. In 1996 the Women's Bar Association had more than one thousand members; the Women's Law Center four hundred members; the Alliance of Black Women Attorneys one hundred and fifty members. Nevertheless, in 1996 there are still only five female judges on the Circuit Court for Baltimore City, two women on the United States District Court for the District of Maryland and one woman on each of Maryland's appellate benches. Fortunately, the District Court for Baltimore City now boasts nine women, including that Court's first female administrative judge, the Hon. Mary Ellen T. Rinehardt. In 1996, Judge Martha F. Rasin was appointed successor to Robert F. Sweeney as Chief Judge of the District Court of Maryland, the first female appointed to that position.<sup>627</sup> Another promising indication for women was the 1994 appointment of Diana G. Motz to the United States Court of Appeals for the Fourth Circuit. Judge Motz, a former Baltimore lawyer, Assistant Attorney General, and Maryland appellate judge, is the first female appointed to the Fourth Circuit from the District of Maryland.

From a small group of seven women in 1927, women lawyers of Baltimore now constitute a significant part of the Baltimore legal community. The original narrow purposes of the Women Lawyers Association of Baltimore have broadened, and women lawyers today look to maintain the honor and integrity of the legal profession and to advance the status of all women in society through law-related activities.

A question frequently asked of women bar groups is, "Why do women need a separate bar association?" Responding to this inquiry, Tricia D. O'Neill, 1996-1997 President of the Women's Bar Association of Maryland, Inc., has stated

Now that the ABA, MSBA and BABC have all had female presidents, an argument could be made that there is no reason for the continued existence of women's bars. However, this argument is far too simplistic. Such "specialty" bar associations as the WBA provide alternative advocacy and leadership avenues for qualified attorneys whose views and interests may not be reflected in the activities of the "mainstream" bar. Additionally, even for those who readily affiliate with state or national bar associations, there are obvious advantages to being a member of a smaller, more homogenous group.<sup>628</sup>

I close this history with a brief return to the 18th century. A prominent lawyer in the 1700s complained about the tendency of his Colonial peers to copy the style and thinking of English barristers:

Must we tread always in their steps, go where they go, do what they do, and say what they say?

He urged them instead to create instead a distinctly American legal system, one that would be responsive to the needs of a new nation. "Nearly three hundred years later women lawyers are adopting similar views, insisting that that their contributions to the law be not as associate males but as independent actors who by their very presence are changing the nature of the legal profession and our system of laws as well."<sup>629</sup>

Two of those "independent actors" give this contemporary advice. Judge Mary Arabian tells young female lawyers today: "Full steam ahead! Law is always exciting . . . it's a very creative field; it's meant to evolve, to be developed and improved—women are very good at that."<sup>630</sup> Judge Shirley Jones' advice to women lawyers on the eve of the twenty-first century is this: "Be a lawyer. Period. And be the best lawyer you can be, without focusing upon adjectives."<sup>631</sup>

# CHAPTER SIX

## The Federal Judiciary and Baltimore

*by Francis J. Gorman, Esq.*<sup>632</sup>

THE RELATIONSHIPS BETWEEN THE JUDGES of the Circuit Court for Baltimore City (formerly The Supreme Bench) and the judges of the United States District Court for the District of Maryland have been close over the years. A primary reason is that both courts were located in Baltimore City with two exceptions: in the early years of the Republic the federal judges often sat outside of Baltimore; and the Southern Division was created in 1994 in Greenbelt, Maryland. The proximity of the judges in Baltimore has created an environment for professional and collegial interaction and cooperation.

Many members of the federal judiciary in Maryland were also Maryland state court judges. Judges Howard, Jones, Hargrove, and Davis were members of the Circuit Court for Baltimore City prior to their federal appointments. Judge Nickerson was a member of the Circuit Court for Baltimore County before his appointment.

Theodorick Bland served as an associate judge of the Sixth Judicial Circuit which at that time comprised Baltimore and Harford Counties. Elias Glenn sat in Baltimore as a judge of the Sixth Judicial Circuit. Morris A. Soper served as a judge of the Supreme Bench of Baltimore before his federal appointment in 1923. Two other native Baltimoreans served at the federal circuit level: Hugh Lennox Bond [appointed in 1870] and John Carter Rose [1910]. Judges from Baltimore City now serving on the United



*Photograph of the Maryland Federal Judiciary on the occasion of the U.S. District Court's Bicentennial Ceremony on June 1, 1990. Seated, left to right: Judges Herbert Murray, Edward S. Northrup, Chief Judge Alexander Harvey, II, Chief Justice William H. Rehnquist, Frank A. Kaufman, Joseph H. Young, and Herbert N. Maletz; Standing, left to right: Judges J. Frederick Motz, John R. Hargrove, Walter E. Black, Jr., Joseph C. Howard, Norman P. Ramsey, Paul V. Niemeyer, Frederic N. Smalkin, and Marvin J. Garbis*

States Court of Appeals for the Fourth Circuit are Francis D. Murnaghan, Jr. [1979], Paul V. Niemeyer [1990], and Diana G. Motz [1994]. Their immediate predecessors from Baltimore City, in addition to Judge Soper, were Chief Judge Harrison L. Winter [1979] and Simon E. Sobeloff [1955].

### ***Judges of the U.S. District Court for the District of Maryland***<sup>633</sup>

<b>Judge</b>	<b>Year Appointed</b>	<b>Judge</b>	<b>Year Appointed</b>
CATHERINE C. BLAKE	1995	BENSON E. LEGG	1991
ANDRE M. DAVIS	1995	WILLIAM M. NICKERSON	1990
ALEXANDER WILLIAMS, JR.	1994	MARVIN J. GARBIS	1989
DEBORAH K. CHASANOW	1993	HERBERT N. MALETZ <sup>634</sup>	1987
PETER J. MESSITE	1993	FREDERIC N. SMALKIN	1986
J. FREDERICK MOTZ, C.J.	1985	ROSZEL C. THOMSEN	1954
JOHN R. HARGROVE	1984	W. CALVIN CHESNUT	1931
WALTER E. BLACK, JR.	1982	WILLIAM C. COLEMAN	1927
NORMAN P. RAMSEY	1980	MORRIS A. SOPER	1923
SHIRLEY B. JONES	1979	JOHN C. ROSE	1910
JOSEPH P. HOWARD	1979	THOMAS J. MORRIS	1879
C. STANLEY BLAIR	1971	WILLIAM S. GILES	1853
HERBERT F. MURRAY	1971	JOHN GLENN	1852
JOSEPH H. YOUNG	1971	UPTON S. HEATH	1836
JAMES R. MILLER	1970	ELIAS GLENN	1824
ALEXANDER HARVEY, II	1966	THEODORICK BLAND	1819
FRANK A. KAUFMAN	1966	JAMES HOUSTON	1806
HARRISON L. WINTER	1961	JAMES WINCHESTER	1799
EDWARD S. NORTHROP	1961	WILLIAM PACA	1790
R. DORSEY WATKINS	1955		

# APPENDIX

## Members of Constitutional Conventions from Baltimore City & County

### *First State Constitution in 1776*

*Baltimore County*—CHARLES RIDGELY, THOMAS COCKEY DAYE, JOHN STEVENSON, PETER SHEPPARD

*Baltimore Town*—JOHN SMITH, JEREMIAH CHASE

### *Ratification of U.S. Constitution (State Convention of 1788)*

*Baltimore County*—CHARLES RIDGELY, CHARLES RIDGELY, OF WM., EDWARD COCKEY, NATHAN CROMWELL

*Baltimore Town*—JAMES McHENRY, JOHN COULTER

### *State Constitutional Convention of 1851*

*Baltimore City*—CHARLES J. M. GWINN, DAVID STEWART, ROBERT J. BRENT, GEORGE W. SHERWOOD, BENJAMIN C. PRESTMAN, ELIAS WARE, JR.

### *State Constitutional Convention of 1864*

*Baltimore City*—SAMUEL T. HATCH, JOSEPH H. ANDOUN, HENRY STOCKBRIDGE, WM. BROOKS, JOHN BARRON, JOSEPH M. CUSHING, JOHN L. THOMAS, JR., BALTUS H. KENNARD, EDWIN A. ABBOTT, ARCHIBALD STERLING, JR., WM. DANIEL

### *State Constitutional Convention of 1867*

*Baltimore City, 1st Legislative District*—LINDSAY H. REYNOLDS, EZRA WHITMAN, JOHN H. BARNES, ISAAC S. GEORGE, JOSHUA VANSANT, EDWARD F. FLAHERTY, JAMES A. HENDERSON

*Baltimore City, 2nd Legislative District*—GEORGE M. GILL, GEORGE WM. BROWN, BERNARD CARTER, ALBERT RITCHIE, HENRY F. GAREY, GEORGE W. DOBBIN, J. HALL PLEASANTS



*Baltimore City, 3rd Legislative District*—JAMES R. BREWER, JOHN FERRY, J. MONTGOMERY PETERS, JOHN FRANCK, JOSEPH P. MERRYMAN, ISAAC M. DENSON, WALTER S. WILKINSON

***State Constitutional Convention 1967–1968***

*Baltimore City Delegates*—MURRAY ABRAMSON, G. MAXWELL ARMOR, JR., E. CLINTON BAMBERGER, JR., HARRY BARD, ALBERT F. BAUMANN, FRANK J. BLAIR, ROY BOROM, ELSBETH LEVY BOTHE, C. MEREDITH BOYCE, JOHN CARROLL BYRNES, AUDREY WARD CICONE, RICHARD F. CLEVELAND, EDWARD DABROWSKI, JR., GEORGE W. DELLA, LEROY FREDERICK, LEAH S. FREEDLANDER, FRANCIS X. GALLAGHER, RUBY H. GILL, JOHN R. HARGROVE, CHARNEY L. HARRIS, ANNE D. HOPKINS, R. SAMUEL JETT, JOSEPH L. JOHNSON, ADDIE J. KEY, EARL KOGER, SR., CHESTER G. KOSAKOWSKI, HENRY R. LORD, DAVID T. MASON, JUANITA JACKSON MITCHELL, M. PETER MOSER, JOSEPH P. MURPHY, HERBERT R. O'CONOR, JR., FRANK C. ROBey, JR., EDWARD B. RYBCZYNSKI, JOSEPH SHERBOW, ROMUALD SKIP SIEWIERSKI, MARVIN I. SINGER, AGNES WHITE SMITH, JAMES E. SOUL, LLOYD TAYLOR, VINCENT J. VECERA, CHARLES L. WAGANDT, CHARLES H. WHEATLEY, JOHN W. WHITE, JR.

***Baltimore City State's Attorneys***

ROBERT M. McLANE	1899–1903
ALBERT S.J. OWENS	1903–1912
WM. F. BROENING	1912–1919
HARRY W. NICE	1919
ROBERT F. LEACH JR.	1920–1924
HERBERT R. O'CONOR	1924–1934
J. BERNARD WELLS	1934–1950
ANSELM SODARO	1951–1956
J. HAROLD GRADY	1956–1959
SAUL A. HARRIS	1959–1962
WILLIAM J. O'DONNELL	1962–1964
CHARLES E. MOYLAN JR.	1964–1970
HOWARD L. CARDIN	1970–1971
MILTON B. ALLEN	1971–1975
WILLIAM A. SWISHER	1975–1982
KURT L. SCHMOKE	1983–1987
STUART O. SIMMS	1987–1995
PATRICIA C. JESSAMY	1995–PRESENT

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*The Pursuit of Excellence, The Career of George L. Russell, Jr. (Unpublished monograph)*

# NOTES

- 1 John Carroll Byrnes has been a judge on the Circuit Court for Baltimore City since 1982. He chairs the History Project of the Baltimore Courthouse and Law Museum Foundation. He has been the principal writer of Chapter 1 and editor of the book. He gratefully acknowledges the talented writing, research, and editing of this book by the numerous friends of history credited in the Acknowledgments.
- 2 Michael C. Tolley, *Maryland's Anglo-Legal Inheritance*, 21 MD. BAR J. 27, 27 (1988).
- 3 1 Archives of Maryland x (Baltimore, Maryland Historical Society, 1887–1972). [cited hereafter as “Md. Arch.”]
- 4 *Id.*
- 5 Gust Skordas, *Maryland Government: 1634–1866*, in *THE OLD LINE STATE: A HISTORY OF MARYLAND* 308, 309 (Morris Radoff, ed. 1971).
- 6 Henry Chandler Forman, *Maryland Architecture: The First Two Centuries*, in *THE OLD LINE STATE: A HISTORY OF MARYLAND* 208, 208 (Morris Radoff, ed. 1971).
- 7 CONWAY W. SAMS & ELIHU S. RILEY, *THE BENCH AND BAR OF MARYLAND* (1901) 38.
- 8 *Id.* at 39
- 9 FRANK D. THOMAS, *MONOGRAPH OF THE NEW BALTIMORE COURTHOUSE* (Baltimore, A. Hoen & Co., 1899).
- 10 SAMS & RILEY, *supra* note 7, at 39.
- 11 Skordas, *supra* note 5, at 323.
- 12 *Id.*
- 13 *Id.*
- 14 *Id.*
- 15 See ELBERT M. BYRD, *THE JUDICIAL PROCESS IN MARYLAND* 1 (1961).
- 16 *Id.* at 2.
- 17 See, *infra* notes 47–49 and accompanying text.
- 18 BYRD, *supra* note 15, at 2.
- 19 BYRD, *supra* note 15, at 2. On December 30, 1637, Captain George Evelyn was granted the position of Commander for Kent Island, and this year is often cited for the actual beginning of the County Courts. VIII Md. Arch. xi. It was not until 1642, however, that the geographic areas known as St. Mary’s and Kent Island were given autonomous powers as counties, and so the name “County Court” might not properly be used to describe the first years of Captain Evelyn’s court. *Id.*
- 20 NEWTON D. MERENESS, *MARYLAND AS A PROPRIETARY PROVINCE* 228 (John E. Edwards, pub. 1968) (1901).
- 21 Skordas, *supra* note 5, at 328
- 22 *Id.*
- 23 *Id.*



- 24 *Id.*
- 25 Marilyn L. Geiger, *The Administration of Justice in Colonial Maryland*, 49–50 (Ph.D. dissertation, 1973.) New York: Garland, 1987.
- 26 MERENESS, *supra* note 20, at 229.
- 27 1 Md. Arch. 147.
- 28 BYRD, *supra* note 15, at 2.
- 29 *Id.*
- 30 Geiger, *supra* note 25, at 50. Other county courts that were established at the same time the counties were organized include: Anne Arundel, 1650; Calvert, 1654; Charles, 1658; Baltimore, 1660; Talbot, 1662; Somerset, 1665; Dorchester, 1668; Cecil, 1672; Prince George's, 1695; and Kent, 1637.
- 31 THOMAS, *supra* note 9, at 2.
- 32 MERENESS, *supra* note 20, at 230–231. According to Mereness,  
 [d]uring the administration of Celcilus, the first lord proprietor, from 1632 to 1675, authority was given by him for the erection into a manor of any grant containing one thousand acres or more. Before 1676 about sixty manors, averaging a little less than three thousand acres each, had been erected for others than those of the lord proprietor's own household. However, with the accession of Charles, the second lord proprietor, in 1675, the erection of manors almost ceased.
- A manor differed from a mere freehold in that it was given a name, and in that the grantee was allowed to hold court-baron and court-leet, and have all fines and profits belonging thereto. Further, the early grants of manors gave the grantee the advowsons of churches and unrestricted privileges of hunting for any game. The court-baron was given jurisdiction over civil cases in which the damages did not exceed a fine of forty shillings, while the court-leet took cognizance of criminal offenses within the precincts of the manor. To what extent such courts were held, there remains no evidence except the records of a court-baron held on St. Gabriel's Manor in the year 1656, and the records of a few sessions of both court-baron and court-leet held on St. Clement's Manor between the years 1659–72. The records of the latter manor show that it had its steward, constable, and bailiff, and that a jury of twelve men, after hearing the charges or complaints, made its presentments, often fixing the fines, and occasionally referring the matter to the governor of the province. If the fine imposed by the jury was thought to be too excessive, it might be revised by affectors sworn for that purpose.
- MERENESS, *supra* note 20, at 52–53.
- 33 THOMAS, *supra* note 9, at 2.
- 34 Skordas, *supra* note 5, at 330.
- 35 MERENESS, *supra* note 20, at 230.
- 36 MERENESS, *supra* note 20, at 232.
- 37 10,000 pounds of tobacco was worth fifty pounds sterling. 5,000 pounds of tobacco worth 20 pounds sterling. Tobacco was used to set value for civil suits because at the time, this crop was widely used as currency in the Province. Skordas, *supra* note 5, at 325; Aubrey C. Land, *The Colonial Period, in THE OLD LINE STATE: A HISTORY OF MARYLAND* 11, 17 (Morris Radoff, ed. 1971). In fact, tobacco was so important to the economy that even taxes were payable by tobacco. J. THOMAS SCHARE, *HISTORY OF BALTIMORE CITY AND COUNTY* 46 (Regional Publishing Co., 1971) (18xx). and J. J. THOMAS SCHARE, *Chronicles of Baltimore*, Turnbull Bros., Baltimore (1874).
- 38 MERENESS, *supra* note 20, at 239–240.
- 39 Skordas, *supra* note 5, at 325.
- 40 *Id.*
- 41 *Id.* VIII Md. Arch. xxxv. An earlier, almost identical, act had been passed by the Assembly in 1663, but had been vetoed by the Proprietor.
- 42 Some scholars believe that Maryland was emulating the Assembly of Durham, which was a county, also referred to as a palatinate, in England. Generally, freemen of the county met as a group to perform both legislative and judicial functions. The General Assembly in Maryland operated in accordance with this tradition. MERENESS, *supra* note 20, at 194, 228. The General Assembly probably referenced the Assembly of Durham because the original Charter of Maryland granted to Lord Baltimore all the powers enjoyed by the Bishops of Durham, who were fifteenth century feudal vassals. Morris Radoff, *The Settlement, in THE OLD LINE STATE: A HISTORY OF MARYLAND* 1, 4 (Morris Radoff, ed. 1971).
- 43 Skordas, *supra* note 5, at 323.
- 44 *Id.* The General Assembly first met in 1635. The charter of the province anticipated the existence of an assembly, referring to laws drafted by the Lord Proprietor and approved by the freemen of the province. However,

- the freemen decided to reverse the process. Lord Baltimore finally recognized the assembly's power to draft laws in 1637. ROBERT J. BRUGGER, *MARYLAND: A MIDDLE TEMPERAMENT 1634–1980* (1988) 13; *See also* CARL EVERSTINE, *THE GENERAL ASSEMBLY OF MARYLAND: 1634–1776*, 31–32 (1980).
- 45 Skordas, *supra* note 5, at 323.
- 46 CARROLL T. BOND, *THE COURT OF APPEALS OF MARYLAND: A HISTORY* 3 (1928). The General Assembly first met as a bicameral legislature in 1650, and legalized the split in an act that same year. EVERSTINE, *supra* note 44, at 84–85.
- 47 BOND, *supra* note 46, at 3. The Court was originally the Upper House of the Assembly, following tradition in England and in the Province of Maryland. It essentially consisted of the Governor and Council, and often went by that name. The Governor and his council sat as the Court of Appeals until the Revolution. Article 56 of the Constitution of 1776 established the Court of Appeals as a court in its own right. This high court had existed since 1650, but did not exist as a court independent of the Governor and Council until after the Revolution. *See, generally*, BOND, *supra* note 46.
- 48 Skordas, *supra* note 5, at 323.
- 49 *Id.* at 324.
- 50 MARYLAND STATE ARCHIVES, *A GUIDE TO STATE AGENCY RECORDS AT THE MARYLAND STATE ARCHIVES, State Agency Histories and Series Descriptions* 78 (June 1, 1994).
- 51 Skordas, *supra* note 5, at 325.
- 52 III Md. Arch. 49–53 (excerpting the language of the commission).
- 53 Skordas, *supra* note 5, at 326.
- 54 MARYLAND STATE ARCHIVES, *supra* note 50, at 31.
- 55 1715 Md. Laws 41 §7.
- 56 MD. STATE ARCHIVES, *supra* note 50, at 31.
- 57 HON. ALBERT W. NORTHPROP & ROBERT A. SCHMUHL, ESQ., *DECEDENTS' ESTATES IN MARYLAND* 29 (1994).
- 58 *Id.* at 29–30.
- 59 *Id.* at 30.
- 60 *Id.*
- 61 *Id.* at 31.
- 62 *Id.*
- 63 III Md. Arch. 49–53.
- 64 Skordas, *supra* note 5, at 327.
- 65 David Owens, Esq., a former partner in Semmes, Bowen and Semmes has done extensive research in this field. *See* DAVID R. OWEN AND MICHAEL C. TOLLEY, *COURTS OF ADMIRALTY IN COLONIAL MARYLAND; THE MARYLAND EXPERIENCE, 1634–1776*, (Carolina Academic Press in association with the Maryland Historical Society) (1995).
- 66 *Id.* at 326.
- 67 *Id.* at 327.
- 68 *Id.*
- 69 MARYLAND STATE ARCHIVES, *supra* note 50, at 7.
- 70 Skordas, *supra* note 5, at 346.
- 71 MARYLAND STATE ARCHIVES, *supra* note 50, at 7.
- 72 One of the changes brought about by the movement of the population was the transfer of Maryland's capital from St. Mary's to Annapolis in 1694. EVERSTINE, *supra* note 44, at 158.
- 73 BYRD, *supra* note 15, at 4. Anne Arundel County was established by the General Assembly in 1650 as follows: "An Act for the erecting of Providence into a County by the name of Anne Arundel County." There is no precise founding language for Baltimore County. Its first mention was in a writ issued to the sheriff of the county in 1659 or 1660. MARYLAND MANUAL, 1994–1995, 691 (Diane P. Frese, ed.).
- 74 BYRD, *supra* note 15, at 3.
- 75 MD. CONST. § 56 (1776).
- 76 Cole's Harbor was what is known today as the Inner Harbor, or Baltimore Harbor generally. Thomas Cole obtained a warrant for 300 acres on January 13, 1668. After various conveyances the full acreage was patented to him on Sept. 4, 1668. On June 1, 1700 it was patented to James Todd and then consisted of 510 acres. Scharf reports the belief that the first settler of 380 acres along Jones' Falls was David Jones, whose survey is dated June 15, 1661. SCHARF, *supra* note 37, at 48–49.
- 77 1729 Md. Laws 12. SCHARF, *supra* note 37, *Chronicles*, 431.
- 78 An Act of September 28, 1745 merged Baltimore-Town and Jones-Town, the latter having been created by the General Assembly on August 8, 1732, across Jones Falls from Baltimore-Town. The area affected encom-

passed what is today known as Fell's Point. 1745 Md. Laws 9. SCHARF, note 37, *History*, 167.

79 Although, the Carroll family ownership was in some dispute at the time. SCHARF, *supra*, note 37.

80 SCHARF, *supra* note 37, at 50, 51 and 53.

81 THOMAS, *supra* note 9, at 3.

82 SCHARF, *supra* note 37, at 53.

83 SCHARF, *supra* note 37, at 40. Modern day Joppa is near where the old county seat was located. EDWARD C. PAFENFUSE & JOSEPH M COALE III, THE HAMMOND- HARWOOD HOUSE ATLAS OF HISTORICAL MAPS OF MARYLAND: 1608-1908, 51 (1982); UNITED STATES DEPARTMENT OF THE INTERIOR, THE NATIONAL ATLAS OF THE UNITED STATES OF AMERICA, 50 (1970). However, settlement in that town was not continuous. See SCHARF, *supra* note 37, at 47. There is historical speculation that the true first county seat, referred to as "Old Baltimore," was established before 1683, near or on the Bush River above the Chesapeake Bay. SCHARF, *History, County Seats*, 42, 43.

84 SCHARF, *supra* note 37, at 40.

85 SCHARF, *supra* note 37, at 47.

86 SCHARF, *supra* note 37, at 185 records the population growth from 1730 through 1880 as follows:

1730	43
1752	200
1774	5,000
1776	6,755
1782	8,000
1790	13,503
1800	26,114
1810	35,583
1820	62,738
1830	80,625
1840	102,313
1850	160,054
1860	212,418
1870	267,599
1880	332,190

87 BRUGGER, *supra* note 44, at 107.

88 SCHARF, *supra* note 37, at 60.

89 For example, Maryland had a "tea party" of its own when the tea ship "Peggy Stewart" was burned in Annapolis Harbor on October 19, 1774. A 1904 mural by Charles Yardley Turner commemorating this event can be found in the Criminal Courts Lobby of the Clarence M. Mitchell, Jr. Courthouse.

90 As referenced above, the General Assembly was an elected body, began by the freemen of the colony. See *supra* notes 43-46 and accompanying text.

91 These "Country" (as opposed to court) delegates included Samuel Chase, Thomas Johnson, William Paca and Matthew Tilghman. By 1776, these men had become the leaders of the Whig group at the convention, as more radical Delegates like Rezin Hammond and John Hall split off. The Country party was anti-Proprietary, whereas the Court party supported the Proprietary government. RONALD HOFFMAN, A SPIRIT OF DISSENSION: ECONOMICS, POLITICS, AND REVOLUTION IN MARYLAND (1973) 47.

92 *Id.* at 121.

93 EVERSTINE, *supra* note 44, at 521. Eden himself returned to England in June of 1774 and did not return until November, by which time a convention had begun to meet and usurp his authority. Eden left the colony for good in June of 1776. HOFFMAN, *supra* note 88, at 143.

94 EVERSTINE, *supra* note 44, at 522.

95 EVERSTINE, *supra* note 44, at 559-563.

96 The Association of Freemen of Maryland provided that political power was vested in the Convention and provided a means for its election. The executive and some judicial power were given to a "Council of Safety," originally with 16 members (this was reduced to 7 members by the sixth convention). EVERSTINE, *supra* note 44, at 531-38, 541.

97 SCHARF, *supra*, note 37, pg 79 and *Chronicles of Baltimore*, Col. J. Thomas Scharf, Balto. Turnbull Bros. 1874, 125, 126, 147.

98 BYRD, *supra* note 15, at 6-7.

99 *Id.*

100 *Id.*

- 101 Resolved unanimously, That the instructions given by the convention of December last (and renewed by the convention in May) to the deputies of this colony in congress, be recalled, and the restrictions therein contained removed; that the deputies of this colony attending in congress, or a majority of them, or any three or more of them, be authorized and empowered to concur with the other united colonies, or a majority of them in declaring the united colonies free and independent states, in forming such further compact and confederation between them, in making foreign alliances, and in adopting such other measures as shall be adjudged necessary for securing the liberties of America, and this colony will hold itself [sic] bound by the resolutions of a majority of the united colonies in the premises: provided, the sole and exclusive right of regulating the internal government and police of this colony be reserved to the people thereof.
- PROCEEDINGS OF THE CONVENTION OF THE PROVINCE OF MARYLAND, HELD AT THE CITY OF ANNAPOLIS, IN 1774, 1775 & 1776 (Jonas Green, 1836) 176.
- 102 See J. THOMAS SCHARE, *THE CHRONICLES OF BALTIMORE 144–45* Turnbull Bros., Baltimore (1874).
- 103 PROCEEDINGS OF THE CONVENTION OF THE PROVINCE OF MARYLAND, HELD AT THE CITY OF ANNAPOLIS, IN 1774, 1775 & 1776 (Jonas Green, 1836) 184–189.
- 104 BYRD, *supra* note 15, at 7–9.
- 105 BYRD, *supra* note 15, at 7.
- 106 MD. CONST. DECL. OF RIGHTS Art. 6 (1776) (“That the legislative, executive, and judicial powers of government ought to be for ever separate and distinct from each other.”).
- 107 BYRD, *supra* note 15, at 7.
- 108 MD. CONST. § 40 (1776).
- 109 MD. CONST. § 52 (1776).
- 110 MD. CONST. § 56 (1776).
- 111 Skordas, *supra* note 5, at 343.
- 112 *Id.*
- 113 BYRD, *supra* note 15, at 7.
- 114 MARYLAND STATE ARCHIVES, *supra* note 50, at 173.
- 115 Jeffrey K. Sawyer, *Distrust of the Legal Establishment in Perspective: Maryland During the Early National Years*, 2 GA. J. SOUTHERN LEGAL HIST. 1, 12 (1993).
- 116 1785 Md. Laws 87.
- 117 Md. Const. §56 (1776) (“That one person of integrity and sound judgment in the law be appointed chancellor.”)
- 118 MARYLAND STATE ARCHIVES, *supra* note 50, at 31.
- 119 The Maryland Constitution of 1776 does not establish the county courts, but rather notes their existence in several sections: 40 (mentions the clerks of the county courts); 47 (granting appointment power of the county court clerks to the county court justices); 60 (providing that laws will be published and given to the county courts); 61 (providing that elections are to be held wherever the several county courts are held).
- 120 MD. CONST. § 56 (1776). The Chancery Court, presided over by one judge titled “chancellor,” had jurisdiction over all of Maryland for cases in equity.
- 121 1785 Md. Laws 87.
- 122 MD. CONST. § 41 (1776).
- 123 1777 Md. Laws 8.
- 124 Skordas, *supra* note 5, at 348.
- 125 BYRD, *supra* note 15, at 8.
- 126 SCHARE, *supra*, note 37, *Chronicles*, pg 249.
- 127 Chapter 57 Acts of 1793. Oyer and Terminer [is a] half French phrase applied in England to the assizes, which are so called from the commission of *oyer and terminer* directed to the judges, empowering them to ‘inquire, hear, and determine’ all treasons, felonies, and misdemeanors. This commission, is now issued regularly, but was formerly used only on particular occasions, as upon sudden outrage or insurrection in any place. In the United States, the higher criminal courts are called ‘courts of oyer and terminer.’ SEE ALSO, BLACK’S LAW DICTIONARY (3rd ed., 1933).
- 128 “Gaoi Delivery [is t]he delivery or clearing of a gaol [jail] of the prisoners confined therein, by trying them.” Black’s Law Dictionary (3rd ed., 1933).
- 129 1793 Md. Laws 57.
- 130 *Id.*
- 131 1793 Md. Laws 57 §12.
- 132 1793 Md. Laws 57 §2.

- 133 Section 3 of this act provided that all matters before the Baltimore County Court concerning "felonies . . . and other crimes, offences [sic] and misdemeanors . . ." be transferred to this new court. Section 17, however, provided that the new court would have concurrent jurisdiction with the Baltimore County Court concerning matters between masters, servants, and apprentices. Section 36 provided that the Chief Judge of this court was to receive 200 pounds per year for his services.
- 134 SCHARE, *supra*, note 37, *The History of Baltimore City and County*, Part I, Municipal Government, (Baltimore Regional Publishing Co. 1791), 167–169.
- 135 1796 Md. Laws 68. However, this act was only to remain in force until September 1, 1798. The Act was made perpetual the following year by 1797 Md. Laws 54.
- 136 1796 Md. Laws 68.
- 137 SCHARE, *supra*, note 37, *Chronicles of Baltimore*, 281, 282; *History of Baltimore*, 171, 174. See also, Wilbur F. Coyle, *First Records of Baltimore Town and Jones' Town 1729–1797*, 105 (1905). The unicameral council was established in 1922.
- 138 SCHARE, *supra* note 37, at 173.
- 139 1796 Md. Laws 68 § 8.
- 140 1797 Md. Laws 121 and letter from Patricia V. Melville to the author, March 7, 1997.
- 141 1799 Md. Laws 58. See also letter from Patricia V. Melville, March 7, 1997.
- 142 1801 Md. Laws 74.
- 143 Sawyer, *supra* note 115, at 12.
- 144 *Id.*
- 145 *Id.* at 13. Pennsylvania debated the wisdom of a strong county court system at its constitutional convention of 1789–90. Virginia fought a similar battle over the issue of local versus centralized judicial power between 1790 and 1805.
- 146 *Id.* at 10.
- 147 *Id.* at 8.
- 148 *Id.* at 9.
- 149 *Id.* at 13.
- 150 *Id.* at 16.
- 151 *Id.*
- 152 *Id.* at 18.
- 153 *Id.*
- 154 1805 Md. Laws 16.
- 155 Sawyer, *supra* note 115, at 21–22.
- 156 Skordas, *supra* note 5, at 343.
- 157 Sawyer, *supra* note 115, at 22.
- 158 Skordas, *supra* note 5, at 343.
- 159 1805 Md. Laws 55, § 5.
- 160 MARYLAND STATE ARCHIVES, *supra* note 50, at 78.
- 161 Sawyer, *supra* note 115, at 22.
- 162 1816 Md. Laws 193. This was Baltimore City's first court, with exclusive jurisdiction over the city, not the county.
- 163 1816 Md. Laws 193.
- 164 1847 Md. Laws 66.
- 165 Chapter 8, Acts of 1840–41 authorized the library for a period of thirty years. Its life was extended indefinitely on February 19, 1870 by Chapter 6, Acts of 1870. The Story of The Library Company of the Baltimore Bar, by James F. Schneider, 1979.
- 166 SCHARE, *Chronicles*, 509, 510
- 167 *The Story of The Library Company of the Baltimore Bar* by Hon. James F. Schneider. (Privately published, Autumn 1979)
- 168 SCHARE, *HISTORY OF BALTIMORE CITY AND COUNTY*, Louis H. Everts, Philadelphia 1881. At the time of the Constitution, the population of Baltimore City had risen to just above 100,000. BRUGGER, *supra* note 44, at 773. Consequently, a major issue at the Convention in 1851 was that of legislative apportionment. In 1830, when Baltimore had 80,000 inhabitants, it had only 2 delegates in the House, the same number it had when its population was only 26,000. *Id.* at 228, 258.
- 169 MD. CONST. Art. IV §§ 10–13 (1851).
- 170 Constitutional amendments of 1837 (1836 Md. Laws 197, ratified 1837) served partially to ameliorate the problem of the distribution of political power, but by the 1840 census a delegate from Baltimore City rep-

- resented 7.9 times as many voters as a delegate from Caroline County. By 1850, although Baltimore City had the right to six delegates, the ratio had increased to 8.7. *The History of Legislative Apportionment in Maryland*, in CONSTITUTIONAL REVISION STUDY DOCUMENTS OF THE CONSTITUTIONAL CONVENTION COMMISSION OF MARYLAND 139–140 (1968).
- 171 James Warner Harry, *The Maryland Constitution of 1851*, JOHNS HOPKINS UNIVERSITY STUDIES, Series XX, Nos. 7–8, 16–17 (1902). Professor Charles J. Rohr places this desire to limit the General Assembly's authority to incur debt in the context of a trend away from the dominance of the legislative branch and toward an equal balance of powers. Charles James Rohr, *The Governor of Maryland: A Constitutional Study*, JOHNS HOPKINS UNIVERSITY STUDIES, Series L, No. 3, 71–72 (1932).
- 172 According to contemporary accounts, the judiciary cost Maryland \$41,500 in 1840. Harry, *supra* note 171, at 19 n.15. A conflicting report is given in WILLIAM J. EVITTS, A MATTER OF ALLEGIANCES: MARYLAND FROM 1850 TO 1861 34 n.47 (1974), where it is reported that “in 1842 Governor Francis Thomas declared that Maryland’s annual \$36,000 expenditure was the largest judicial salary bill in all the states. In fact, it was not, but most Marylanders took the governor’s estimate as gospel.” For the fiscal year 1994, Maryland’s budget for the judiciary was approximately \$131,747,693. MARYLAND MANUAL 1994–1995 (Diane P. Frese, ed.). The requested budget for the Circuit Court for Baltimore City for fiscal year 1997 is \$7,914,764. Letter from Joseph H. H. Kaplan to Edward J. Gallagher, Dept. of Finance of Baltimore City (Dec. 19, 1995).
- 173 DEBATES AND PROCEEDINGS OF THE MARYLAND REFORM CONVENTION (McNeir, 1851), vol. II, 460–61. The Eastern Shore and southern Maryland had opposed the constitutional convention. Redistricting the General Assembly would take power away from these regions and more importantly perhaps, might endanger the continued legality of slave ownership.
- 174 MD. CONST. ART. IV § 4 (1851).
- 175 MARYLAND STATE ARCHIVES, *supra* note 50, at 78.
- 176 MD. CONST. ART. IV § 4 (1851).
- 177 *Id.*
- 178 MD. CONST. ART. IV § 8 (1851). In each circuit, one judge was to be elected to hold circuit court. These circuit courts had jurisdiction over both law and equity. The exception to this plan was Baltimore City. The City had three separate courts created for it, including the Court of Common Pleas, the Superior Court of Baltimore City, and the Criminal Court of Baltimore City.
- 179 MD. CONST. ART. IV § 8 (1851).
- 180 MD. CONST. ART. IV § 4 (1851). The County Courts did not really have a separate existence from the Circuit Courts at this point. The judge for each circuit would travel among the counties in his circuit, and hold court at each county court. BOND, *supra* note 46, at 150–151.
- 181 MD. CONST., ART. IV, §§ 8, 10, 11, 13 (1851). Because Baltimore City was to have its own court system, the Baltimore County “seat” had to be removed from the City. A plaque stands in front of the old courthouse in Towson, commemorating its service beginning July 4, 1851, the date of the adoption of the 1851 constitution. It reads, “Baltimore County Courthouse, Separation of Baltimore City and County effective July 4, 1851. Towson town was chosen as county seat by popular vote February 13, 1854. The courthouse of local limestone and marble was completed in 1855 at a cost of \$30,000. Enlarged in 1910–1925–1958.”
- 182 The traditional common law pleadings, *per se*, were effectively abolished by what is now Rule 2–302.
- 183 *Pleading At Law in Maryland*, Hyman Ginsberg and Isidore Ginsberg, 2nd ed, privately published, 1951.
- 184 MD. CONST. ART. IV § 10 (1851).
- 185 MD. CONST. ART. IV § 12 (1851).
- 186 MD. CONST. ART. IV § 10 (1851).
- 187 At common law, pleas, or pleadings, were used to define the issue in the case at hand. There were a number of common law pleas, and the pleading process could be quite complicated. Modern practice operates under code pleadings, which are generally limited to a complaint, an answer, and a reply to the answer. MD. R. 2–303(b).
- 188 MD. CONST. ART. IV § 11 (1851).
- 189 MD. CONST. ART. IV § 12 (1851).
- 190 MD. CONST. ART. IV § 11 (1851).
- 191 MD. CONST. ART. IV § 13 (1851).
- 192 MD. CONST. ART. IV §§ 12, 13 (1851).
- 193 1852 Md. Laws 344.
- 194 MD. CONST. ART. IV §§ 12, 13 (1851).
- 195 MD. CONST. ART. IV § 40 (1776) (providing that “all judges” will hold their positions “during good behavior.”).
- 196 MD. CONST. ART. IV §§ 4, 9 (1851).



197 BYRD, *supra* note 15, at 11. MD. CONST. Art. IV §17 (1851)(Orphan's Court—four years); MD. CONST. Art. IV § 19 (1851) (Justices of the Peace—two years).

198 MD. CONST. Art. IV § 17 (1851).

199 *Id.* See also NORTHRUP & SCHUMUHL, *supra* note 57, at 32–33. According to Northrup & Schumuhl, the constitutional source of today's Orphans' Court is found in the Maryland Constitution, Article IV, Section 40. It provides, in its entirety:

The qualified voters of the City of Baltimore, and of the several Counties, except Montgomery County and Harford County, shall elect three judges to the Orphans' Courts of City and Counties, respectively, who shall be citizens of the State and residents, for the twelve months preceding, in the City or County for which they may be elected. They shall have all the powers now vested in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe. Each of the Judges shall be paid such compensation as may be regulated by Law, to be paid by the City or Counties, respectively. In case of a vacancy in the office of Judge of the Orphans' Court, the governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the vacancy for the residue of the term. One of the three judges is designated by the Governor to sit as the chief judge. The remaining two judges are commissioned as associate judges.

Montgomery and Harford Counties were excepted from the above referenced constitutional provision. The void created by that exception is overcome by Article IV, section 20(b) of the Constitution:

The judges of the Circuit Court for Montgomery and Harford Counties shall each, alternately and in rotation and on schedules to be established by judges, sit as an Orphans' Court for their County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Court now have and exercise, or which may hereafter be provided by law.

200 MD. CONST. § 41 (1776).

201 MD. CONST. Art. IV §18 (1851).

202 *Id.*

203 Skordas, *supra* note 5, at 346. The Constitution of 1851, Article 4, section 23, had provided that the Chancellor would be phased out slowly, and eliminated at the end of two years.

204 MARYLAND STATE ARCHIVES, *supra* note 50, at 31.

205 1852 Md. Laws 16.

206 MD. CONST. Art. IV §12 (1851).

207 BYRD, *supra* note 15, at 13.

208 *Id.*

209 1853 Md. Laws 122.

210 1853 Md. Laws 238.

211 1854 Md. Laws 155.

212 *Id.*

213 See *infra*, The Juvenile Court and 1902 Md. Laws 611

214 Reverdy Johnson, one of the most distinguished and well-known members of the Maryland Bar, served as Attorney General of the United States during the turbulent pre-Civil War era. (1849 to 1850). He argued the infamous *Dred Scott* case before the Supreme Court, and represented Maryland in the United States Senate (1863–68). He is included among the twenty-four great lawyers of Maryland whose names are inscribed in the frieze around the base of the great dome in Room 600, The Supreme Bench Courtroom, Clarence M. Mitchell, Jr. Courthouse.

215 BYRD, *supra* note 15, at 13.

216 *Id.*

217 This election is decried as a "shameless mockery and its results were but the work of fraud and violence." J. THOMAS SCHARF, HISTORY OF MARYLAND III, 460 (Tradition Press, 1967) (1879). The home of Governor Bradford, located in Baltimore County on the grounds of the Elkridge Country Club on Charles Street, was burned during the Civil War by Rebel soldiers in apparent retribution for the destruction of the Virginia Governor's mansion.

218 William Starr Myers, *The Maryland Constitution of 1864*, JOHNS HOPKINS UNIVERSITY STUDIES, Series XIX, Nos. 8–9, 8–9 (1901) (Hereinafter Myers 1864).

219 MD. CONST. Art. III § 43 (1851) ("The legislature shall not pass any law abolishing the relation of master or slave, as it now exists in this State.").

220 Lincoln's Emancipation Proclamation did not affect the slaves of Maryland because the State was not in rebellion.

- 221 There had been several calls for a new convention, notably in 1858 and 1862. See, Myers 1864, *supra* note 206, at 13. The Unconditional Union Party, which had been a radical wing of the Union Party, chose to combine dissatisfaction with the Constitution of 1851 with the emancipation movement.
- 222 Originally, these two parties were factions of the Union Party. However, they soon separated into legitimate political parties. Myers 1864, *supra* note 218, at 15.
- 223 *Id.* at 15, 32.
- 224 Chief Justice Roger B. Taney, a native of Maryland, felt strongly that President Lincoln was acting unconstitutionally in suspending the writ. In a letter to the President, the Chief Justice wrote, “the People of the United States are no longer living under a government of laws, but every citizen holds life, liberty, and property at the will and pleasure of the army officer in whose military district he may happen to be found.” (Quoted in BRUGGER, *supra* note 44, at 283.)
- 225 Myers 1864, *supra* note 218, at 15.
- 226 *Id.* at 16, 24.
- 227 1863 was not a gubernatorial election year. Candidates for Comptroller of the Treasury headed their parties’ tickets. Myers 1864, *supra* note 218 at 14–15.
- 228 General Robert C. Schenck of the Union Army Corps, headquartered in Baltimore, openly advocated the election of the Unconditional Union ticket. Further, to consolidate Union strength and out of fear of agitation, Schenck took virtual military control of the supervision of the election. Myers 1864, *supra* note 218, at 17–24. Under such conditions, it is not surprising that the Unconditional Union ticket won an overwhelming victory. *Id.* at 24.
- 229 Myers 1864, *supra* note 218, at 30–31.
- 230 *Id.* at 35, 37, 39.
- 231 Changes included the abolition of slavery, MD. CONST. DECL. OF RIGHTS Art. 24 (1864); and the imposition of the “ironclad oaths” restricting rebels and former slaveowners from voting and holding elective office, MD. CONST. Art. I §§ 4, 7 (1864).
- 232 The Constitution of 1864 was replaced a mere three years later by the present 1867 Constitution.
- 233 In June 1864, Confederate General Jubal A. Early led a force of approximately fifteen thousand men through the Valley of Virginia to threaten Washington D.C. and thereby relieve the pressure of Grant’s armies on Richmond. The Confederate troops occupied Hagerstown, captured Rockville and defeated a large Union army at Monocacy Junction. A small detachment fought into the Baltimore area, with small skirmishes in Cockeysville, Govanstown and Pikesville. During these events the Convention recessed for ten days, but the psychological impact of the battle was strong. Myers 1864, *supra* note 218, at 44–48.
- 234 BYRD, *supra* note 15, at 14.
- 235 MD. CONST. Art. IV §§ 24, 31 (1864).
- 236 BYRD, *supra* note 15, at 14. Includes a general discussion of the changes in the Baltimore City courts.
- 237 MD. CONST. Art. IV § 34 (1864).
- 238 MD. CONST. Art. IV § 33 (1864).
- 239 *Id.*
- 240 The creation of the Circuit Court for Baltimore City was initially an act of the legislature. 1853 Md. Laws 122.
- 241 MD. CONST. Art. IV §35 (1864).
- 242 MD. CONST. Art. IV § 43 (1864).
- 243 *Id.*
- 244 MD. CONST. Art IV §§ 3, 17.
- 245 As many as 20,000 Marylanders fought for the armies of the Confederate States of America. William Starr Myers, *The Self-Reconstruction of Maryland, 1864–1867*, JOHNS HOPKINS UNIVERSITY STUDIES, Series XXVII, Nos. 1–2, 23, n.38 (1909) (Hereinafter Myers 1864–1867).
- 246 *Id.* at 23–27.
- 247 A list of questions designed to exclude ineligible voters was propagated by the election judges, pursuant to an act of the General Assembly. 1865 Md. Laws 174 §6. That list included the following questions:  
X. Have you ever been in any manner in the service of the so-called ‘Confederate States of America’?  
  
XII. Have you ever given any aid, countenance or support to those engaged in armed hostility to the United States or [to] the so-called ‘Confederate States of America’?  
  
XXIII. During the rebellion, when the armies were engaged in battle, did you wish the success of the armies of the United States or those of the rebels?

Cited in Myers 1864–1867, *supra* note 245, at 31–32.

248 Myers 1864–1867, *supra* note 245, at 29, 33.

249 The exact number is in dispute. According to *Anderson v. Baker*, 23 Md. 531 (1865), the number varies from about two-thirds to about three-quarters. As the Court of Appeals noted, however, these estimates probably include those voters who chose not to endure the arduous registration process, but would have been found eligible if they had. *Anderson* 23 Md. at 543, 613–14.

250 Myers 1864–1867, *supra* note 245, at 33.

251 Hardesty v. Taft, 23 Md. 512 (1865); *Anderson v. Baker*, 23 Md. 531 (1865).

252 Myers 1864–1867, *supra* note 245 at 47–48. As the Unionist party weakened, the Democrats strengthened. The Democrats biggest boost came from the election of Governor Thomas Swann, who pushed for weaker voter qualifications. As a result, many democrats who had been disenfranchised were once again able to cast ballots. CHARLES JAMES ROHR, *THE GOVERNOR OF MARYLAND: A CONSTITUTIONAL STUDY* 82–83 (1932).

253 There were municipal elections in Baltimore City in October 1866, in which the radical Unionists were successful in preventing many Democrats from voting. It was these election irregularities that provided the justification for Governor Swann protecting the November election. The story of that municipal election is told in Myers, *supra* note 245, at 65–79.

254 Myers 1864–1867, *supra* note 245, at 76–77.

255 *Id.* at 83–84.

256 The call for a Constitutional Convention passed the General Assembly on March 20, 1867. *See*, Myers 1864–1867, *supra* note 245, at 94–97.

257 *Id.* at 110–111.

258 *Id.* at 111.

259 *Id.* at 113.

260 MD. CONST. Art. 1 §§ 4, 7 (1864). Article 1 section 6 of the Constitution of 1867 contained the standard oath of office, but did not reference the Confederacy.

261 The Governor was given the veto power, MD. CONST. Art. II §17 (1867), increased appointment authority, MD. CONST. Art. II §10; Art. VII, §3, 4 (1867) and removal powers, MD. CONST. Art. II §15 (1867). *See*, ROHR, *supra* note 186 at 87–89.

262 After much debate, a formula was selected that limited representation from Baltimore City and the larger counties in favor of the Democratic strongholds of southern Maryland and the Eastern Shore. MD. CONST. Art. III §§ 3–5 (1867). *See also* Myers 1864–1867, *supra* note 245, at 121.

263 MD. CONST. Art. IV §§ 14, 19 (1867).

264 MD. CONST. Art. IV § 14 (1867).

265 “There shall be in the Eighth Judicial Circuit six Courts, to be styled the Supreme Bench of Baltimore City, the Superior Court of Baltimore City, the Court of Common Pleas, the Baltimore City Court, the Circuit Court of Baltimore City and the Criminal Court of Baltimore.” MD. CONST. Art IV § 27 (1867).

266 MD. CONST. Art. IV §27 (1867). The Baltimore City Court had been created by statute earlier. *See supra* notes 154–156 and accompanying text.

267 MD. CONST. ART. IV § 31 (1867). Judicial compensation now is fully state funded, providing each judge \$96,500 *per annum*.

268 MD. CONST. Art. IV § 32 (1867).

269 MD. CONST. Art. IV § 33 (1867).

270 MD. CONST. Art. IV § 32 (1867). Judges John Carroll Byrnes, Thomas Ward and Kenneth Lavon Johnson were the last judges elected to the Supreme Bench of Baltimore City, on November 2, 1982.

271 ART. IV, §33, Constitution of 1867.

272 For many years the Supreme Bench “admitted” new lawyers to practice before it by a prescribed oath. This oath was discontinued in the 1980’s in recognition of the Court of Appeals’ exclusive responsibility for admitting new lawyers. However, the tradition of welcoming new attorneys from the Bench continues.

273 MD. CONST. Art. IV §34 (1867). According to section 33, the Supreme Bench was also to determine motions for new trials whether based on law or fact, rule on the “misdirection” below on questions of law, rule on errors of law made below, and decide “motions in arrest of judgment.” A vestige of this power remains in *en banc* civil and criminal sentencing appeals to three judge panels of the Court.

274 MD. CONST. Art. IV § 28 (1867).

275 *The Superior Court of Baltimore City*, THE BALTIMORE BARRISTER (The Bar Association of Baltimore City, Baltimore, MD), January, 1982, at 18.

276 MD. CONST. Art. IV § 28(1867).

- 277 MD. CONST. Art. IV §29 (1867).  
 278 1908 Md. Laws 166, 167, 188.  
 279 1874 Md. Laws 483 § 13.  
 280 1874 Md. Laws 483 § 16.  
 281 A succinct explanation of the origins of common law pleading is found in Pleading At Law In Maryland by Hyman Ginsberg and Isidore Ginsberg, 2nd Ed. (private published, 1951) which the author kept readily at hand in the early days of his practice.]  
 282 BYRD, *supra* note 15, at 70–71. See, e.g. MD. CONST. Art. IV §30 (granting court same powers as before).  
 283 MD. CONST. Art. IV § 30 (1867).  
 284 MD. CONST. Art. IV § 39 (1867).  
 285 BRUGGER, *supra* note 44, at 773.  
 286 *The Circuit Court No. 2 of Baltimore City*, THE BALTIMORE BARRISTER (Bar Association of Baltimore City, Baltimore, MD), Autumn, 1980, at 12.  
 287 1888 Md. Laws 194.  
 288 1892 Md. Laws 244.  
 289 Patricia V. Melville, *Adoption in Maryland*, THE ARCHIVISTS' BULLDOG (Maryland State Archives, Annapolis, MD), October 28, 1991, at 1.  
 290 1892 Md. Laws 313, which became section 39 of article four of the Constitution on November 7, 1893, stated in pertinent part, "[t]he General Assembly shall, as often as it may think the same proper and expedient, provide by Law for the election of an additional Judge of the Supreme Bench of Baltimore City . . ."  
 291 BYRD, *supra* note 15, at 16–17.  
 292 *Id.*  
 293 The population increased from 169,054 in 1850 to 508,957 in 1900. This growth is partially attributable to the annexation of a portion of Baltimore County to Baltimore City in 1888. U.S. Bureau of the Census, 1790–1940. See also BRUGGER, *supra* note 44, at 352.  
 294 Hon. James F. Schneider, *1896 That Year of Wonders*, 24 MD. BAR J. vol. 29, 2, 8 (1996). See also JAMES F. SCHNEIDER, A CENTURY OF STRIVING FOR JUSTICE (1996) published by the Maryland State Bar Association in celebration of its centennial.  
 295 Schneider, *1896 That Year of Wonders*, *supra* note 294 at 8.  
 296 Mr. Wallis' statue stands between the entrance doors of Courtroom 400 in the Mitchell Building. See the excellent history of the Association by Hon. James F. Schneider in his *Commemoration of the Centennial of The Bar Association of Baltimore City*, privately published, 1980. Although there was some interest in a "junior bar" for young lawyers as early as 1869, it was not until August 31, 1934 that it was organized. It is now organized as the young lawyers section of the City Bar Association.  
 297 *Id.* at 9.  
 298 The United States Bureau of the Census recorded the City's population from 1900 to 1995 as follows:
- |      |        |      |               |
|------|--------|------|---------------|
| 1900 | 508957 | 1960 | 939024        |
| 1910 | 558485 | 1970 | 905787        |
| 1920 | 733826 | 1980 | 786741        |
| 1930 | 804874 | 1990 | 736014        |
| 1940 | 859100 | 1995 | [est.] 691131 |
| 1950 | 949708 |      |               |
- 299 See discussion *infra*, Chapter Three, Hon. John M. Glynn, *A Brief History of the District Court of Maryland for Baltimore City*.  
 300 MD. CONST. Art. IV § 14 (1867).  
 301 John P. Hively, *Maryland Government: 1867–1956*, in THE OLD LINE STATE: A HISTORY OF MARYLAND 355, 380 (Morris Radoff, ed. 1971.)  
 302 *Id.*, citing *Report of the Commission on the Judiciary Article of the Constitution of Maryland*, Baltimore, 1942.  
 303 1943 Md. Laws 772.  
 304 1960 Md. Laws 11, rat. Nov., 1960.  
 305 MARYLAND STATE ARCHIVES, *supra* note 50, at 78.  
 306 MD. CONST. Art. IV § 14.  
 307 *Id.* This change was a consequence of the decline in Baltimore City's population and the increase in suburban population.  
 308 Depositions and Discovery- Digest of Maryland Decisions. Christopher H. Foreman, XVIII M.L.R. 1 (1958).  
 309 The New Maryland Depositions and Discovery Procedure. James A. Pike and John W. Willis, VI M.L.R. 4 (1941).  
 310 "Discovery disputes" are numerous enough to require the assignment of one judge to resolve them, in addi-

tion to his or her normal docket. The Rules Committee proposed a rule, similar in purpose if not design, to Federal Rule 26, requiring "initial disclosure of information within 30 days of the filing of a responsive pleading. *Md. Reg.* Vol 20:8 (April 16, 1993) Resistance was strong enough, however, to persuade the committee to withdraw the proposed rule. *Md. Reg.* Vol 21:9 (April 29, 1994).

- 311 MARYLAND STATE ARCHIVES, *supra* note 50, at 89.
- 312 MARYLAND GENERAL ASSEMBLY 1994 PROPOSED AMENDMENTS TO THE CONSTITUTION OF MARYLAND, The Legislative Division of the Dept. Of Legislative Reference, General Assembly of Maryland, at 9,10 (1994).
- 313 MARYLAND STATE ARCHIVES, *supra* note 50, at 89.
- 314 1972 Md. Laws 361.
- 315 *Id.*
- 316 1977 Md. Laws 252.
- 317 1994 Md. Laws 581.
- 318 1983 Md. Laws 6.
- 319 1994 Md. Laws 581.
- 320 1971 Md. Laws 423 §156 ("If the case was originally tried in Baltimore City, an appeal in a criminal or traffic case shall be taken to the Criminal Court of Baltimore . . . .")
- 321 Ordinances and Board of Estimates recommendations, Dept. of Legislative Reference of Baltimore City. In 1994, the total Circuit Court of Baltimore City expense was \$201,710,065., of which \$7,433,569. (36%) came from local sources and \$13,276,496. (64%) from state sources. *See also*, Overview of Court Funding in Maryland, Dept. of Fiscal Services, pg. 11, Sept. 14, 1995.
- 322 *Maryland Committee v. Tawes*, 377 U.S. 656 (1964) (holding that the Maryland legislature should be apportioned according to population).
- 323 JOHN P. WHEELER & MELISSA KINSEY, MAGNIFICENT FAILURE: THE MARYLAND CONSTITUTIONAL CONVENTION OF 1967–1968, 16 (1970).
- 324 Former governor William Preston Lane, Jr. was appointed honorary chairman and served until his death. H. Vernon Eney, Esq., a distinguished member of the Baltimore City and Maryland Bar, chaired the Commission and later the convention itself as president.
- 325 The General Assembly acquiesced and called for a convention in 1966, rather than waiting for the 20 year cycle in 1970. Attorney General Thomas B. Finan issued an opinion that Article XIV, section 2 of the 1867 Constitution permitted the General Assembly to call for a convention at any time. This opinion was affirmed by the Court of Appeals in Board of Supervisors of Elections for Anne Arundel Co. v. Attorney General of Maryland, 246 Md. 417 (1967). A vociferous dissent in that case was written by Judge Wilson K. Barnes of the Court of Appeals. Mrs. Barnes, Judge Barnes' wife, was later the president of an organization called "Save Our State," organized in opposition to passage of the proposed constitution. Wheeler, *supra* note 309, at 204.
- 326 Elected delegates from Baltimore City were: Murray Abramson, G. Maxwell Armor, Jr., E. Clinton Bamberger, Jr., Harry Bard, Albert F. Baumann, Frank J. Blair, Roy Borom, Elsbeth Levy Bothe, C. Meredith Boyce, John Carroll Byrnes, Audrey Ward Cicone, Richard F. Cleveland, Edward Dabrowski, Jr., George W. Della, LeRoy Frederick, Leah S. Freedlander, Francis X. Gallagher, Rubye H. Gill, John R. Hargrove, Charney L. Harris, Anne D. Hopkins, R. Samuel Jett, Joseph L. Johnson, Addie J. Key, Earl Koger, Sr., Chester G. Koskowski, Henry R. Lord, David T. Mason, Juanita Jackson Mitchell, M. Peter Moser, Joseph P. Murphy, Herbert R. O'Connor, Jr., Frank C. Robey, Jr., Edward B. Ryczynski, Joseph Sherbow, Romauld Skip Siewierski, Marvin I. Singer, Agnes White Smith, James E. Soul, Lloyd Taylor, Vincent J. Vaccera, Charles L. Wagandt, Charles H. Wheatley, and John W. White Jr. Delegates Bothe, Byrnes and Hargrove were later appointed and elected to the Supreme Bench of Baltimore City.
- 327 BRUGGER, *supra* note 44, at 623.
- 328 A significant reorganization of the Constitution, although not as complete as that proposed by the 1967–68 Convention, was accomplished by 1977 Md. Laws 681, rat. Nov. 7, 1978.
- 329 Two excellent summaries of the events of the convention are WHEELER, *supra* note 323, and MARIANNE ELLIS ALEXANDER, THE ISSUES AND POLITICS OF THE MARYLAND CONSTITUTIONAL CONVENTION, 1967–1968 (1972).
- 330 PROPOSED CONSTITUTION § 3.03.
- 331 PROPOSED CONSTITUTION § 3.15. A similar, but more modest proposal was subsequently adopted. *See* 1970 Md. Laws 576, rat. Nov. 3, 1970.
- 332 PROPOSED CONSTITUTION § 4.26, *et. seq.* The Governor was given the authority to institute reorganizations of the executive branch by 1969 Md. Laws 790, rat. Nov. 3, 1970. Governor Spiro Agnew later exercised this power, drastically reducing the number of independent executive agencies and committees.

- 333 PROPOSED CONSTITUTION § 4.29.
- 334 PROPOSED CONSTITUTION § 4.25. Under the old system the Treasurer, nominally a legislative appointee, was the third member of the Board of Public Works. It was proposed that an appointee of the Governor, as well as the Governor and the Comptroller would make up the Board.
- 335 PROPOSED CONSTITUTION § 4.20. The effect of this proposal would be to reduce the potency of an independently elected executive official.
- 336 PROPOSED CONSTITUTION § 4.03. The office of Lieutenant Governor was established by 1970 Md. Laws 532, rat. Nov. 3, 1970.
- 337 PROPOSED CONSTITUTION § 5.01–5.12. A fairly similar version of this proposal was adopted incrementally by 1969 Md. Laws 789, rat. Nov. 3, 1970, 1977 Md. Laws 681, rat. Nov. 7, 1978, and 1980 Md. Laws 523, rat. Nov. 4, 1980.
- 338 PROPOSED CONSTITUTION §§ 5.13–5.22. In the current system, Circuit Court and Orphans' Court judges are still popularly elected, Circuit Court every fifteen years, Orphans' Court every four. In 1994, the voters of Maryland overwhelmingly rejected a measure permitting all state judges to serve beyond the mandatory retirement age of 70. PROPOSED CONSTITUTIONAL AMENDMENT Art. IV, §§ 3, 3A, 3B, 5A(f), 18B, 41(D) (1994).
- 339 Baltimore City's Circuit Judges generally oppose unification as well, although because of the declining fiscal capacity of the City government, they join the Mayors who have long supported state take over of particular Circuit Court operations.
- 340 PROPOSED CONSTITUTION §§ 7.01–7.04.
- 341 PROPOSED CONSTITUTION § 7.08. Opposition to "regional governments" had an unmistakable racial overtone and contributed greatly to the defeat of the proposed constitution.
- 342 PROPOSED CONSTITUTION § 2.01. The proposed voting age was nineteen. The 26th amendment to the U.S. Constitution later established it at eighteen.
- 343 PROPOSED CONSTITUTION Art. 1. It was described as "a far shorter declaration of rights containing only justiciable matters, and in great part, recast in language following that of the U.S. Constitution." WHEELER, *supra* note 323, at 128.
- 344 Royce Hanson, *Analysis: In Maryland, the Courthouse Gangs and the Little Guys Join Forces to Defeat a Reform Constitution*, CITY, July–August 1969, at 38 (cited in WHEELER, *supra* note 323, at 4). The statewide vote was 367,101 against and 284,033 for in an election held May 14, 1968. CONSTITUTIONAL REVISION STUDY DOCUMENTS OF THE CONSTITUTIONAL CONVENTION COMMISSION OF MARYLAND, ix (1968). The Baltimore City vote was 84,822 against and 72,482 in favor of the proposed constitution. MORRIS L. RADOFF & FRANK F. WHITE, JR., THE HALL OF RECORDS COMMISSION, MARYLAND MANUAL, 1969–1970, 499 (1970).
- 345 This conjecture is based in significant part upon oral histories graciously shared with the author by Hon. Sandra E. Banks, Patricia M. Bertorelli, Robert H. Bouse, Lawrence A. Murphy, Hon. Robert B. Watts, Hon. Solomon Baylor, and Hon. Thomas Ward. This political motivation is alluded to as well in the 1951 *Report of Commission To Study The Judiciary* to Governor McKeldin. There is some unverified conjecture about an early intent to make the Supreme Bench an appellate tribunal of some sort; but no such jurisdiction was then conferred by the constitution. See Md. Code Ann. art. 27 Sec. 645J A et seq. (1997) and Md.R.4–344 [three judge sentencing review] and Md. Code Ann., Const. art. iv, Sec. 22 (1981) and Md. R. 2–551 [*In Banc* Review].
- 346 Not related to the present Attorney General J. Joseph Curran, Jr., William Curran was born in 1885 and died in 1951. Before achieving city-wide influence in 1928 and launching the career of Herbert R. O'Connor, he was a Second Branch City Councilman, State Senator and Delegate from southeast Baltimore City. He became Attorney General in 1945. He was also an erudite and accomplished trial lawyer—a favorite of young aspiring litigators. *The Evening Sun*, October 4, 1951. See also *The Evening Sun*, Gilbert Sandler, August 14, 1974, and *The Jewish Times*, *Master of the Game*, February 28, 1997. "Apprenticeship" quote taken from *Matters Before The Court* by Neil A. Grauer published in *The Daily Record Centennial Edition* June 1988, 42.
- 347 *Id.*
- 348 Conversation with Lawrence A. Murphy, former Clerk of the Criminal Court.
- 349 The 1970 Census reported 479,837 "White" and 420,210 "Negro". Bureau of Census Statistics, The Maryland Room, Enoch Pratt Free Library.
- 350 Automatically succeeding Mayor William Donald Schaefer upon the latter's becoming Governor in 1987.
- 351 *The Baltimore Sun*, December 30, 1996. Mrs. Adams became, in 1967, the first Black woman on the Baltimore City Council.
- 352 In 1970 the Black population of the City was 420,210. The White population was 479,837. By 1990, there were 435,619 Black citizens, 287,933 White, 2,373 Native Americans, 7,982 Asians and 2,107 others.



Census News, Department of Planning, April 1993.

- 353 Md. Constitution Art. IV Sec.10 (1990). See also Supplement of the Commission on the Future of Maryland Courts, September 12, 1996.
- 354 1853 Md. Laws 122;
- 355 1902 Md. Laws 611. Thomas J.S. Waxter, Sr. later headed the Baltimore City Department of Social Welfare and thereafter the State Department of Social Welfare. On his death in 1962 the city named the Waxter Center for Senior Citizens in his honor.
- 356 1943 Md. Laws 818.
- 357 *Id.* Judge Charles E. Moylan, who became a judge of the Supreme Bench in September of 1943, was assigned to be permanent judge of the Juvenile Court and served in that capacity until he was succeeded by Judge Robert I. Hammerman in May of 1967.
- 358 *In re Gault*, 387 U.S. 1 (1967)(holding that assistance of counsel is essential for purposes of a determination of juvenile delinquency).
- 359 Long v. Robinson, 436 F. 2d 1116 (4th Cir. 1971).
- 360 Letter from Hon. Robert I.H. Hammerman to Hon. John Carroll Byrnes of July 26, 1996, describing Judge Hammerman's experiences as permanent judge of the Juvenile Court.
- 361 *Id.*
- 362 1973 Md. Laws 2, section 1 (Special Session).
- 363 Case Activity and Current Inventory Status Report, December 1996, Assignment Commissioner of the Circuit Court for Baltimore City.
- 364 Letter from Hon. David B. Mitchell to Hon. John Carroll Byrnes of July 11, 1996, describing Judge Mitchell's experiences in over a quarter of a century of association with the Juvenile Court.
- 365 *Id.*
- 366 Letter from Hon. Robert I.H. Hammerman to Hon. John Carroll Byrnes, *supra* note 360.
- 367 Letter from Hon. David B. Mitchell to Hon. John Carroll Byrnes, *supra* note 364.
- 368 *Id.*
- 369 On any given day in Baltimore City, as much as 20% of the public high school student population might be absent. 1996 Maryland School Performance Program Report by the Baltimore City Public Schools.
- 370 Letter from Hon. David B. Mitchell to Hon. John Carroll Byrnes, *supra* note 364.
- 371 1955 Md. Laws 269.
- 372 1959 Md. Laws 386.
- 373 U.S. Bureau of the Census.
- 374 1967 Md. Laws 456.
- 375 1968 Md. Laws 694. As the Bench grew, Courthouse West, later renamed as the Clarence M. Mitchell Courthouse, used an annex building on St. Paul Place to accommodate the increase due to an increase in the caseload of the court.
- 376 U.S. Bureau of the Census. *The Sun*, A1, March 21, 1997, reporting a decline of 60,000 residents of the City from 1990 to 1996.
- 377 MD. CODE ANN., CTS. & JUD. PROC. section 1-503 (1974).
- 378 1975 Md. Laws 308. (From 21 to 22 judges). 1979 Md. Laws 480. (From 22 to 23 judges).
- 379 U.S. Bureau of the Census.
- 380 1988 Md. Laws 473.
- 381 1990 Md. Laws 407.
- 382 1993 Md. Laws 125.
- 383 Acts of 1996, ch. 148, section 2. Four new judges were authorized by the General Assembly at the urging of Peter D. Angelos, principal owner of the Baltimore Orioles and premier litigator on behalf of asbestos damage claimants. Although this request was resisted by Chief Judge Murphy because it was made outside the normal process for identifying where new judges were needed in the state, it was supported by Administrative Judge Kaplan to cope with the approximately 12,000 pending cases. Judge Edward J. Angeletti, presiding over this enormous docket estimated that it increases by 200 cases each month.
- 384 U.S. Bureau of the Census.
- 385 Active case inventories compiled by the Administrative Office of the Courts, Annapolis Maryland.
- 386 The establishment of the Administrative Judge position constituted a major change in the state's judicial organization and warrants the special attention given it in this history. It was well researched by Eric R. Harlan, Esq., who served as Law Clerk to the Honorable Joseph H.H. Kaplan, Administrative Judge of the Circuit Court for Baltimore City, for the 1994-5 Term. Currently, Mr. Harlan is practicing as an associate with Whiteford, Taylor & Preston, L.L.P.

- 387 The General Court is memorialized in the name of the general membership category of the Baltimore Courthouse and Law Museum Foundation.
- 388 MD. CONST. ART. IV. section 18 (1867).
- 389 1939 Md. Laws 719.
- 390 1943 Md. Laws 772, rat. Nov. 7, 1944 and currently codified at Art. IV section 18 of the Maryland constitution.
- 391 1939 Md. Laws 719, Section 35C. Md. Rule 1.f., adopted July 18, 1956, effective January 1, 1957, continued this local rule authority at the county and Supreme Bench level until it was amended on February 10, 1969 to allow only "circuit-wide rules," which were subject to modification or abrogation by the Court of Appeals. On January 1, 1981 Rule 1.f. was again amended to rescind all local and circuit rules except those concerned with six specified subjects. This version of 1.f. became Md. Rule 1-102, without substantive change, on July 1, 1984. See, *Walker v Haywood*, 65 Md. App. 1, 9 (1985)
- 392 Final Report of the Commission on Judicial Reform, Hon. George L. Russell, Jr. chairman, December 31, 1974, 52.
- 393 Id., 55.
- 394 1973 Md. Laws 2 (Special Session).
- 395 Chap. 2, Laws of Maryland, Special Session 1973; MD. CODE ANN., CTS. & JUD. PROC. § 1-502 (1973). Although this power had been in place in similar form since 1939, 1939 Md. Laws 719, this section anticipated the promulgation of unifying rules by the Court of Appeals and conferred upon each of the civil courts of the Supreme Bench jurisdiction over all civil actions, in equity and law. See also, *Merger of Law and Equity Under the Revised Maryland Rules: Does it Threaten Trial By Jury?*, 14 U. Balt. L. Rev 1 (1984)
- 396 1943 Md. Laws 772, rat. Nov. 7, 1944. Currently codified at Art. IV § 18 of the Maryland Constitution, the amendment provides that "the Court of Appeals from time to time shall adopt rules and regulations concerning the practice and procedure in and the administration of the appellate courts and in the other courts of this State."
- 397 See, e.g., *Petite v. Papachrist's Estate*, 259 Md. 173 (1959) (holding that rulemaking power is provided by common law); *Prince George's County v. Mitchell*, 97 Md. 330 (1903) (holding that even absent specific constitutional provision, judges undoubtedly have power to take actions and make appointments as necessary for the administration of their respective courts.)
- 398 Md. Rule 16-101 C. 2.(a) now reads: "Each Circuit Administrative Judge shall be generally responsible for the administration of the several courts within his judicial circuit pursuant to these rules and subject to the direction of the Chief Judge of the Court of Appeals."
- 399 MD. CONST. ART. IV. section 32 (1957). (repealed by Acts of 1980, ratified Nov. 4, 1980).
- 400 Under the 1867 constitution, the position of chief judge traditionally went to the senior judge. In 1945 the constitution was amended to authorize the Governor to make this appointment in Baltimore City (Chapter 703, Laws of 1945). This City specific provision was repealed in 1980 (Chapter 523, Laws of 1980).
- 401 Chief Judge Sodaro was appointed to the Bench on Dec. 11, 1956, following widely praised service as the City's State's Attorney. As an assistant state's attorney, he had successfully investigated and prosecuted one of the most notorious murders in the City's history, *State v. Grammar*. He was instrumental in the restructuring of the courthouse in the 1950s.
- 402 Final Report of the Commission on Judicial Reform, Dec. 31, 1974.
- 403 MD. CONST. ART. IV, § 21(c)(1981).
- 404 Joseph H. H. Kaplan is a graduate of the Johns Hopkins University and University of Chicago Law School. He was a partner in Venable Baetjer and Howard when he was appointed to the Supreme Bench of Baltimore City in 1977. He has been a member of the Rules Committee since 1982 and has held numerous civic positions.
- 405 The City Bench has particularly benefited from the nearly heroic work of former Judges Marshall Levin in asbestos litigation, Albert Sklar in civil mediation, and David Ross and Joseph Pines in civil and criminal trials.
- 406 30,571 juvenile cases pending in November, 1996. Case Activity and Current Inventory Status Report, Administrative Office of the Courts, Feb. 14, 1997.
- 407 In fiscal year 1996, the budget of the City's Circuit Court was \$7,723,029, of which \$6,734,436 was appropriated by the City of Baltimore. However, the state now pays judicial and clerk salaries and benefits, among other court operational expenses. In fiscal year 1994, for example, the state contribution to the operations of the Circuit Court was \$13,276,496, 64% of the total cost.
- 408 The General Assembly's Department of Fiscal Services fiscal note for S.B. 131 (Sen. Pica, Dem. Baltimore City) in the 1995 Session, reported that state assumption of the costs of maintenance, operation and admin-

istration of the Baltimore City Circuit Court would cost state general revenues, in fiscal year 1997, \$12.7 million, less approximately \$800,000 in court revenues, leaving a net state expense of \$11.9 million. This would be in addition to an estimated \$85 million in needed capital expenditures for the two courthouses. S.B. 197 in that same session would have required the state to pay for courthouse security, judicial masters, interpreters, jurors, and office space for the clerks, at a net cost to the state of \$14.2 million in fiscal year 1997.

- 409 Md. Rule 16–108. This Conference is distinct from the Maryland Judicial Conference, which includes all Maryland trial and appellate judges. The latter was inaugurated in 1945, in conjunction with the mid-winter meeting of the Maryland State Bar Association. *Judicial Administration in Maryland*, XVI Md.L.R. 93.
- 410 See discussion *infra*, Michael E. Greene, Esq., *Our Courthouses*.
- 411 Report of Commission To Study The Judiciary of Maryland To Governor Theodore R. McKeldin, The Legislative Council of Maryland and the General Assembly, January 1953, 37.
- 412 1980 Md. Laws 523, effective January 1, 1983.  
There shall be a Circuit Court for each county and for Baltimore City. The Circuit Courts shall have and exercise, in the respective counties and Baltimore City, all the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on the effective date of these amendments, and the greater or lesser jurisdiction hereafter prescribed by law.  
MD. CONST. Art. IV section 20 (1967)(amended by 1980 Md. Laws 523).
- 413 The memory of the Supreme Bench is kept alive in a constituent membership unit of the Baltimore Law Museum and Courthouse Foundation, "The Supreme Bench Society." Its members are all former members [and their spouses] of that Bench and its successor Court. The first chairman was the Honorable Robert B. Watts.
- 414 The first elected Clerk of the new Circuit court for Baltimore City was Saundra L. Banks, who was formerly the elected Clerk of the Court of Common Pleas.
- 415 MD. CONST. Art. IV § 19 (1867).
- 416 MD. CONST. Art. IV § 20 (1867). (amended by 1994 Md. Laws ). Each circuit has one judge on the Court of Appeals.
- 417 MD. CONST. Art. IV § 1 (1867).
- 418 MD. CONST. Art. IV § 1A (1867).
- 419 The judges have on occasion "traded" these pre-assigned dockets for a variety of reasons. The numbered "Parts" were originally assigned, alphabetically, to those judges sitting on the Bench at the time of transition from the Supreme Bench to the Circuit Court for Baltimore City on January 1, 1983. For Example, Chief Judge Hammerman was 10th alphabetically and his successor will become "Part 10".
- 420 Janet Stidman Eveleth, *A Legacy of Judicial Excellence* [ an interview of Chief Judge Murphy], 28 MD.BAR J.,No. 5 at 2, 4 (1995).
- 421 Judge C. Philip Nichols, Jr., *The Judicial Frontier*, 29 MD BAR J.,No. 6, at 2, 4 (1996).
- 422 Eveleth, *supra* note 420, at 4.
- 423 Nichols, *supra* note 421, at 3.
- 424 This figure reflects civil cases settled between April and June, 1996 and domestic cases settled between September, 1995 and March, 1996 by the volunteer lawyers' settlement program of the Circuit Court for Baltimore City.
- 425 1993 MD. LAWS 198.
- 426 This push is attributable to the fact that domestic cases take up about 52% of the civil dockets. Eveleth, *supra* note 420 at 6. Also, there is an increasing desire for a court that can look comprehensively at the various aspects of the convergence of family disintegration that has plagued society and the courts in recent decades. Delegate Kenneth Montague of the Baltimore Bar has been the primary legislative proponent. Former Supreme Bench Judge Robert B. Watts has been a long time advocate of a Family Court.
- 427 *City Debating Family Division*, THE MARYLAND LAWYER, August 17, 1996, at 2.
- 428 1993 MD. LAWS 198.
- 429 This figure includes all prisoners in facilities of the State Division of Correction as of June 30, 1996 except for prisoners in Patuxent Institute and local jails.
- 430 BALTIMORE CITY JUVENILE JUSTICE CENTER, a report in the possession of the author.
- 431 The Russell Committee of the Bar Association of Baltimore City reported City Police statistics that in 1987 there were 47,882 adults and 9,697 juveniles arrested for controlled dangerous substance offenses and that 50% of the state's drug arrest are in Baltimore City. *Report of the Russell Committee*, 9–14 (1990 Bar Association of Baltimore City).
- 432 *Report of the Russell Committee*, 3 (1990 Bar Association of Baltimore City).
- 433 *Id.* at 6.

- 434 *Id.* at 46.
- 435 BALTIMORE CITY JUVENILE JUSTICE CENTER, *supra* note 430.
- 436 *Id.*
- 437 *Id.* See also, The Daily Record, 12A, April 18, 1997.
- 438 Authorized by Chapter 561 of the Laws of Maryland 1995.
- 439 The cost of consolidation was estimated to be 85 million dollars by the State Department of Fiscal Services. The Daily Record, January 15, 1996.
- 440 The Commission reported 262,000 new Circuit Court cases filed in fiscal 1995, as well as 67,000 criminal cases and 46,000 juvenile cases, and noted that only 6.3% of the civil and 8.1% of the criminal cases went to trial.
- 441 The present method of electing appellate judges.
- 442 This summary is extracted from the summary of the Commission's proposals. Final Report of the Commission, pp. 13-16.
- 443 Computerization was first applied, in 1969, by our Jury Commissioner's Office, which went on line with the state's J.I.S. system. This was followed by the Criminal Court Clerk's Office in 1972, Juvenile in 1976, Civil in 1982. The judges and administrative office court received personal computers (not networked) in 1993. In 1994, the Juvenile Clerk converted to the QUEST system and in 1994 and 1995 computerization of differentiated case management was launched. *Mary B. Widomski, Deputy Administrator, Memo to the Author*, Oct. 30, 1995.
- 444 In October 1996 there were 200 Termination of Parental Rights cases pending. *Minutes of the Court Management Committee*, Jan. 29, 1997.
- 445 *Minutes of the Court Management Committee*, Jan. 29, 1997.
- 446 Commentary by Jacob A. Stein, Esq. *Md. Bar Journal*, July/August 1996, Vol XXIX, No. 4. Technology has had a negative consequence as well. Law office based computer research resources have substantially diminished the use of the venerable Bar Library, particularly by large firms, some of which have discontinued the long standing practice of paying the individual dues for each of its members and associates.
- 447 To plead out a case sometimes accomplished an early return of the defendant to the street in which his or her criminal behavior was spawned; but prisons are grossly overcrowded and a "plea bargain" often provided at least the assurance of a conviction of the guilty and some imprisonment as well as a subsequent term of probation, avoiding, for the state and the accused, the risk of trial.
- 448 Baltimore attorney Herbert S. Garten organized a committee [supported by the Maryland State Bar Association, the University of Maryland, and the University of Baltimore Law Schools and MICPEL] to study the fairly recent phenomenon of citizens with legal problems avoiding hiring licensed lawyers and often using alternative resources of varying kinds. In August 1996, the American Bar Association's Commission on Non-Lawyer Practice documented significant law practice by non-lawyers throughout the nation.
- 449 Letter of November 22, 1995 to Chief Judge Robert C. Murphy regarding statistical analyses supporting budgeting for new judgeships [in the editors' file]. Judge Kaplan also noted 11,300 pending asbestos cases [Baltimore City was designated as the principal state circuit court for these cases, Judge Edward J. Angeletti, presiding judge], typical civil case filings of about 600 per month and approximately 850 pending lead paint cases [attributable to the aged City housing stock]. On the criminal side, he reported 3500 criminal defendants awaiting trial and a typical wait of 150 days before trial. [Case law and rule requires trial within 180 days, unless waived or excused for good cause].
- 450 Robert J. Rhudy, executive director of Maryland Legal Service Corp., recently reported that "o(f) those problems that could clearly benefit from legal attention, we believe that we currently have the ability to serve the need of less than 20%." Sharon E. Goldsmith, executive director of the People's Pro Bono Action Center, Inc. (sponsored by the Maryland State Bar Association) and Winifred C. Borden, executive director of Maryland Volunteer Lawyers Service, made similar assessments. It was estimated that perhaps only one-quarter of the state's approximate 25,000 licensed lawyers volunteer, although the number of unrecorded community and church service hours donated by lawyers is not recorded. *The Sun*, pg. 1B, 5B, Jan. 23, 1997. Ms. Goldsmith's February 1994 Status Report to the Court of Appeals reported 5,897 *pro bona* cases handled in 1993 by approximately 21% of the eligible bar.
- 451 See, e.g., HB 982, 1996 Session of the General Assembly, which would have authorized "Lay Advocates" for victims of domestic violence. It did not pass.
- 452 In an April 7, 1997 conversation with the author, Albert Winchester, III, Director of Legislative Relations of the Maryland State Bar Association, reported that 36 of the 188 legislators, 19%, were lawyers.
- 453 See *Baltimore City Bar Association Guidelines on Civility*, adopted by the Association's Executive Council on May 14, 1996, in the possession of the author and of the Association. An example of the admonitions are, from The Lawyer's Duties To The Court, "(1) A lawyer should speak and write civilly and respectfully in all

communications with the court." A like duty is placed upon the judge in her relationship with lawyers. A similar guide was published by the Baltimore County Bar Association; and the Maryland State Bar Association, under the leadership of Cleaveland D. Miller, Esq. has proposed a statewide code of civility.

- 454 Rule 11 of the Rules Governing Admission to the Bar of Maryland was adopted June 22, 1990, effective August 1, 1990 to July 31, 1995. In 1995 the Court of Appeals extended the life of the Rule to the year 2000. Since the spring of 1992, more than 9000 bar candidates have completed the course, which is staffed by approximately 200 volunteer lawyers and judges and administered by the Maryland State Bar Association. An initiative of Baltimore County Circuit Judge Barbara Kerr Howe, as president of the Maryland State Bar Association (1996–1997), led to the formation of a committee which recommended a slightly revised program for all lawyers. The leaders of the Professionalism movement include: Pamela J. White, Esq, Rignal W. Baldwin, Esq. and Daniel M. Towney Esq.
- 455 Chief Judge Robert C. Murphy, State of the Judiciary Address before the General Assembly, (January 18, 1996.)
- 456 Eveleth, *supra* note 420, at 5.
- 457 *Id.*
- 458 In 1982, two incumbent judges for the Circuit Court for Baltimore City lost their seats to challengers. Incumbent City judges also lost elections in 1968, 1970 and 1980, and faced close contests in 1972, 1976, 1986 and 1990.
- 459 Md. Rule 5–101 et seq., adopted December 15, 1993; effective July 1, 1994.
- 460 Joseph F. Murphy, Jr. became chief judge of the Court of Special Appeals in 1996. He was appointed to that court in 1993, following service on the Baltimore County Circuit Court from 1984. Previously, he had been an assistant, and later Deputy, States Attorney of Baltimore City from 1970 to 1976. He is also a noted law instructor. See "A Role Model: New Court of Special Appeal Chief Judge" Janet Stidman Eveleth, *Md. Bar Journal*, vol XXX No. 3.
- 461 Chief Judge Robert C. Murphy retired on October 9, 1996 after serving for twenty-four years as Chief Judge of the Court of Appeals. During his tenure as chief judge, he introduced computer tracking of cases, established a system to temporarily recall into service retired judges to help cover overcrowded dockets, improved judicial pensions, and instituted a statewide budgeting process for Maryland courts, including a Judicial Personnel system. Chief Judge Murphy received his college and law degrees from the University of Maryland, and was Deputy Attorney General. He served as chief judge of the Court of Special Appeals before being appointed by Governor Marvin Mandel to head the Court of Appeals in 1972. Mark Hyman, *The End of an Era for Maryland Judiciary*, BALTIMORE SUN, Oct. 6, 1996, at 1A, 14A. Alan M. Wilner was an assistant Attorney General and Legislative Assistant to the Governor before his appointment to the Court of Special Appeals in 1977. He became chief judge of that Court in 1990 and was appointed to the Court of Appeals in 1996. *Maryland Manual 1994–95*
- 462 These include former Judge David Ross and Judge Ellen M. Heller, responsible for the civil docket, Judges Kathleen O'Ferrall Friedman and Albert J. Matricciani, Jr., the domestic docket, Judges David B. Mitchell, David W. Young and Martin P. Welch, the juvenile docket, and Judges Clifton J. Gordy, Jr., Edward J. Angeletti and Joseph P. McCurdy, the criminal docket. Judge Kenneth Lavon Johnson ably chairs the important Budget and Personnel Committee of the Bench.
- 463 Compiled with the able assistance of Patricia V. Melville, Director, Reference Services, Maryland State Archives, Hall of Records. Sources used: Maryland Reports; Commission Record, Governor and Council, 1726–1837, Governor and Council, 1726–1798, Secretary of State, 1838–1967; Docket and Minutes, Baltimore City Court, 1821–1849, Baltimore City Court of Oyer and Terminer and Gaol Delivery, 1789–1816; Minutes, Baltimore City Superior Court, 1851–1862, Baltimore County Court, 1755–1851. Because of the difficulty of researching the available sources for remote time periods, some errors and inadvertent omissions are inevitable. The roster reflects judges serving from 1776 until the present.
- 464 Appointed to the U.S. District Court for the District of Maryland.
- 465 Appointed to the Court of Special Appeals.
- 466 Appointed to the Court of Special Appeals. Judges Arrie W. Davis and Edward J. Angeletti were the first judges appointed and elected to the Circuit Court for Baltimore City. Their predecessors were elected to the Supreme Bench of Baltimore City.
- 467 Judges appointed to the Supreme Bench of Baltimore City were transferred to the Circuit Court for Baltimore City upon the consolidation.
- 468 Appointed to the Court of Special Appeals. Appointed to the Court of Appeals, May 16, 1991, he became Chief Judge of that court on October 23, 1996.
- 469 Appointed to the United States District Court for the District of Maryland.
- 470 Appointed to the Court of Special Appeals. Later appointed to the Court of Appeals, December 17, 1990.

- 471 Appointed to the United States District Court for the District of Maryland.  
 472 Appointed to the Court of Special Appeals.  
 473 Appointed to the Court of Appeals.  
 474 Appointed Baltimore City Solicitor.  
 475 Appointed to the Court of Appeals.  
 476 Appointed to the Court of Appeals.  
 477 Appointed to the United States District Court for the District of Maryland.  
 478 Appointed to the Court of Appeals.  
 479 Appointed to the Court of Appeals. He became Chief Judge of that Court in 1964.  
 480 Appointed to the Court of Appeals.  
 481 Appointed to the United States District Court for the District of Maryland. Later served on the United States Court of Appeals for the Fourth Circuit.  
 482 Appointed Chief Judge of the Court of Appeals.  
 483 William Krebs was the first judge of the Baltimore City Circuit Court on its creation in 1853.  
 484 Judges of the courts created prior to the 1851 Constitution who served before 1776 were:

Judges	Term Began	Term Ended	Judges	Term Began	Term Ended
SAMUEL WORTHINGTON	MARCH , 1772	1775	SAMUEL OWINGS	1744	1772
JOHN BOND	MARCH , 1772	1775	JOHN PACA	1744	1754
JOHN CRADDOCK	1774	1775	CHARLES RIDGLEY	1741	1755
ISSAC VANBIBBER	1772	1775	WILLIAM YOUNG	1741	1775
ANDREW BUCHANAN	MARCH , 1772	1775	THOMAS FRANKLIN	1740	1778
JONATHAN ROWMAN	AUGUST , 1766	1767	GEORGE BUCHANAN	1740	1745
WILLIAM OTTEY	AUGUST , 1766	1767	WILLIAM BOND, JR.	1738	1747
JAMES GITTINGS	AUGUST , 1766	1775	SKIPWITH COALE	1738	1751
JOHN HARRIS	MARCH , 1765	1767	THOMAS BREREWOOD, SR.	1737	1740
RICHARD RICHARDS	MARCH , 1763	1769	JOHN RISTEAU	1737	1743
WILLIAM AISQUITH	MARCH , 1763	1770	NATHAN RIGBIE	1737	1746
JOHN MATTHEWS	MARCH , 1763	1770	PARKER HALL	1737	1751
WILLIAM HUSBAND	MARCH , 1758	1762	RICHARD CASWELL	1734	1745
AQUILA HALL	MARCH , 1758	1772	AQUILA PACA	1734	1743
DOCTOR EPHRAIM			THOMAS TODD	1733	1739
ANDREWS	MARCH , 1758	1768	ROBERT NORTH	1733	1734
WILLIAM ROGERS	JUNE , 1757	1757	THOMAS WHITE	1733	1735
WILLIAM SMITH	JUNE , 1755	1770	GEORGE BUCHANAN	1733	1745
ROGER BOYCE	JUNE , 1755	1759	DANIEL SCOTT, JR.	1733	1733
THOMAS FRANKLIN	JUNE , 1755	1776	PHILIP JONES, JR.	1732	1737
JOHN HALL	1754	1768	THOMAS WARREN	1732	1735
WALTER TOLLEY	MARCH , 1754	1768	EDWARD HALL	1731	1733
JOHN STEVENSON	MARCH , 1754	1757	THOMAS SHEREDINE	1730	1750
ROBERT ADAIR	MARCH , 1754	1758	WILLIAM HAMMOND	1729	1747
WILLIAM LYON	MARCH , 1754	1763	JOHN HALL	1729	1730
ROGER BOYCE	MARCH , 1754	1763	WILLIAM BUCKNER	1729	1731
WILLIAM LUX	MARCH , 1754	1755	THOMAS TOLLEY	1728	1733
NICHOLAS RUXTON GAY	MARCH , 1754	1764	RICHARD GIST	1728	1741
LYDE GOODWIN	MARCH , 1750	1751	WILLIAM HAMILTON	1728	1735
CHRISTOPHER RANDALL	MARCH , 1750	1751	JOHN COCKEY	1724	1729
WILLIAM DALLAM	MARCH , 1750	1751	CHRISTOPHER RANDALL	1724	1726
RICHARD DALLAM	MARCH , 1750	1751	EDWARD HALL	1721	1725
SKIP RIGBIE	MARCH , 1750	1751	LANCELOT TODD	1719	1725
JOHN RIDGLEY	MARCH , 1750	1751	DANIEL SCOTT, JR.	1718	1725
JOHN HALL	1756	1757	ROGER MATTHEWS	1717	1724
JAMES SCOTT	JUNE , 1749	1751	GEORGE WELLS	1716	1716
JOHN MATHEWS	JUNE , 1749	1768	JOHN DORSEY	1716	1725
WILLIAM SMITH	1746	1768	FRANCIS HOLLAND	1716	1721
COLONEL JOHN HALL	1746	1747	JOHN ISRAEL	1716	1723
WINSTONE SMITH	1744	1747	JAMES PHILLIPS	1715	1720



Judges	Term Began	Term Ended	Judges	Term Began	Term Ended
FRANCIS DALLAHIDE	1715	1720	JAMES MAXWELL	1715	BY 1725
LUKE RAVEN	1715	1725	PETER BOND	1715	1717
RICHARD COLEGATE	1715	1721	THOMAS RANDALL	1715	1715
JOSHUA DORSEY	1715	1715			

- 485 The Court of Oyer, Terminer & Gaol Delivery replaced by the Baltimore City Court by Acts of 1816, ch. 193.
- 486 Went on to serve on the U.S. Supreme Court.
- 487 Compiled by Patricia V. Melville, Director, Reference Services, Maryland State Archives, Hall of Records. The Supreme Bench itself had no separately elected clerk; but the Clerk of the Superior Court was directed by the Constitution to discharge the duties of Clerk to the Supreme Bench. XVI M.L.R. 119.
- 488 Although Mary Widomski is listed as Deputy Administrator, no true history can leave it at that. Mrs. Widomski has played an influential role in the contemporary life of this Court. She, working in close collaboration with Administrative Judge Kaplan, has been singularly responsible for the myriad of details in physical renovation and repairs, as well as Bench budgets and social events. She was awarded the annual Term of Court Award in 1996 by The Baltimore Courthouse and Law Museum Foundation, Inc. Mrs. Widomski is ably assisted by Shelvia Chavis, Linda Crockett, Lelia West, Ndola Carlest, Michael Barabin, and John White
- 489 The author, Michael E. Greene, Esq. is an attorney and historian practicing in the Baltimore area.
- 490 THOMAS, *supra* note 9.
- 491 *Id.*
- 492 *Id.*
- 493 *Id.*
- 494 Morris L. Radoff, The Hall of Records Commission for the State of Maryland, The County Courthouses and Records of Maryland, 12, 27 (1960), quoting Scharf, *The Chronicles of Baltimore*, Turnbull Bros. Baltimore (1874).
- 495 THOMAS, *supra* note 9.
- 496 RADOFF, *supra* note 494, at 27.
- 497 THOMAS, *supra* note 9.
- 498 RADOFF, *supra* note 494, at 27.
- 499 *Id.*
- 500 *Id.*
- 501 Scharf recorded this event, *Chronicles*, pg. 489.
- 502 THOMAS, *supra* note 9.
- 503 *Ordinances of Baltimore City*, 1876, pg. 99.
- 504 *Id.*
- 505 *Id.* at 35.
- 506 *Id.*
- 507 *Id.*
- 508 *Id.*
- 509 *Id.*
- 510 JAMES F. SCHNEIDER, A VISITOR'S GUIDE TO THE TREASURES IN THE CLARENCE M. MITCHELL, JR., COURTHOUSE 6 (1984).
- 511 *Id.*
- 512 RADOFF, *supra* note 494 at 35.
- 513 *Id.*
- 514 SCHNEIDER, *supra* note 510, at 3.
- 515 THOMAS, *supra* note 9, at 1.
- 516 *Id.* at 65.
- 517 *Id.*
- 518 *Id.*
- 519 RADOFF, *supra* note 494, at 35.
- 520 THOMAS, *supra* note 9.
- 521 RADOFF, *supra* note 494, at 35.
- 522 SCHNEIDER, *supra* note 510, at 7.
- 523 *Id.* at 26.
- 524 *Id.*

- 525 *Id.* at 25.
- 526 *Id.*
- 527 *Id.* at 10.
- 528 RADOFF, *supra* note 494, at 35.
- 529 *Id.* at 37.
- 530 RICHTER CORNBROOKS GRIBBLE, INC., ARCHITECTS, THE RESTORATION AND RENOVATION OF THE CLARENCE M. MITCHELL, JR. COURTHOUSE.
- 531 SCHNEIDER, *supra* note 510, at 7.
- 532 RICHTER, *supra* note 530, at 13.
- 533 *Id.*
- 534 Interviews with Courthouse employees.
- 535 SCHNEIDER, *supra* note 510, at 13.
- 536 THE BALTIMORE CITY CIRCUIT COURTHOUSES, by John Carroll Byrnes, published by The Baltimore Courthouse and Law Museum Foundation, Inc. in 1992.
- 537 *Id.*
- 538 SCHNEIDER *supra* note 510, at 9.
- 539 Mr. Pokempner, a founder and the first, as well as the current, president of The Baltimore Courthouse and Law Museum Foundation, Inc., was joined on his committee by Peter F. Axelrad, Esq., Leonard E. Cohen, Esq., Hon. James F. Schneider, Katherine T. Sanzone, John Henry Lewin, Esq., Sidney G. Leech, Esq., David W. Skeen, Esq., Michael N. Gambrell, Esq., Patrick A. Roberson, Esq., Hon. Joseph H. H. Kaplan, Esq., Hon. John Carroll Byrnes and George G. Balog. The contractor was Whiting-Turner Contracting Co. Richter Cornbrooks Gribble Inc. was the architect.
- 540 RICHTER *supra* note 530.
- 541 THOMAS, *supra* note 9.
- 542 The author was happy to resort to three primary sources which have examined this subject in some detail: ELBERT BYRD, JR. THE JUDICIAL PROCESS IN MARYLAND, (1961, College Park, Maryland); KENNETH REIBLICH, STUDY OF JUDICIAL ADMINISTRATION OF MARYLAND, Johns Hopkins University Studies of History and Political Science Vol. XLVII (1929) and also an excellent work by GEORGE W. LIEBMANN, MARYLAND DISTRICT COURT LAW AND PRACTICE, West Publishing (1976). Much of what follows is drawn from these excellent sources.
- 543 THOMAS, *supra* note 9.
- 544 ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA.
- 545 John A. Nordberg, *A Blueprint for the New Magistrate System*, 51 Ill Bar Journal 696–698, (1963).
- 546 MD. CONST. § 44 (1776).
- 547 LIEBMANN, *supra* note 542, at 11.
- 548 Whittington v. Polk, 1 Har. & J 236, 248 (1802).
- 549 1804 Md. Laws 55.
- 550 Ordinances of Baltimore City, 1816, page 85.
- 551 1835 Md. Laws 55.
- 552 See *Border Mining Co. v. Barry*, 77 Md. 468 (1861); and *Knell v. Briscoe*, 49 Md. 414 (1898).
- 553 LIEBMANN, *supra* note 542, at 15 (citing *Knell v. Briscoe*, 49 Md. 414 (1878))
- 554 MD. CONST. Art LV § 19 (1951).
- 555 LIEBMANN, *supra* note 542, at 17.
- 556 *Danner v. State*, 89 Md. 220 (1899) .
- 557 1882 Md. Laws 219.
- 558 1902 Md. Laws 611.
- 559 See *Humphrey v. Walls*, 169 Md.292 (1936)(holding that justices of the peace are by the State Constitution made a part of the judicial machinery of the State and no legislative act abolishing them or radically changing their character can be recognized as valid); *Kimble v. Bender*, 173 Md.608 (1938)(holding that the incumbents of the office of justice of the peace derive whatever authority they have from the State Constitution and the laws passed in pursuance thereof); and *Quensted v. Wilson*, 173 Md.11 (1937)(holding that the jurisdiction of justices of the peace is not confined to the municipalities in which they are required to sit.)
- 560 LIEBMANN, *supra* note 542, at 24, citing House of Delegates Journals at 60, 65 and 66.
- 561 LIEBMANN, *supra* note 542, at 24.
- 562 LIEBMANN, *supra* note 542, at 25–26 (Ch.720, Acts of 1939 enacted the reform)
- 563 Oral history interview of Judge Robert B. Watts, December 13, 1994, in the possession of J.C. Byrnes.

- 564 Liebmann, *supra*, note 542, at 28, 29..
- 565 1912 Md. Laws 823. See also, *Levin v Hewes* 118 Md. 624 (1912)
- 566 Quoting from Joseph Sherbow speaking at the ceremony inaugurating the Peoples Court of Baltimore City, June 20, 1941.
- 567 LIEBMANN, *supra* note 542, at 35, citing Chapter 163 of the Acts of 1939, enacting Art. IV Sec. 41A, ratified in 1940.
- 568 LIEBMANN, *supra*, at 542, citing Chapter 969 of the Acts of 1943.
- 569 *Id.* at 38. See also, 1939 House of Delegates Journal at 1497, 1498.
- 570 *Id.* at 40, citing Chapter 373, Laws of 1959.
- 571 *Id.* at 41.
- 572 *Id.* at 42.
- 573 *Id.* at 58.
- 574 Interim Report of the Constitutional Convention Committee, May 26, 1967 at 113-14.
- 575 *Id.* at 73, 74.
- 576 Matthew L. Silverstein and Amanda L. Kalb, *The Evolution of the Practice of Law*, 29 MD. BAR J. 31, 32.
- 577 Judge Sweeney served as chief judge from 1971 until his retirement at his seventieth birthday on September 17, 1997. At that time, he had served as chief judge for two months longer than the District Court had existed, having been appointed before the court actually began operation. He came to the post after serving as Deputy Attorney General of Maryland and Chief of the Criminal Division of the Attorney General's office. Judge Sweeney was born on September 17, 1926 in Baltimore, Maryland. He served in the U.S. Navy before graduating from Loyola College, and worked in private industry prior to obtaining his law degree from the University of Baltimore School of Law in 1957. A new Anne Arundel County courthouse constructed at Rowe Boulevard and Taylor Avenue across from the Court of Appeals building was named the *Robert F. Sweeney District Court Building* as a tribute to the historic accomplishments of the first Chief Judge of the District Court.
- 578 Silverstein and Kalb, *supra* note 576, at 32.
- 579 *Md. Bar Journal*, Vol. XXX No. 2, March/April 1977. Commission on the Future of Maryland Courts, Hearing Minutes, Sept. 12, 1996. Also, Statistical Reports, District Court of Maryland, March 31, 1997
- 580 SCHARE, *Chronicles*, 256
- 581 *Id.*, 255. Remarkably, however, it appears that the voting restriction to "white males" in the 1867 constitution, although eventually constitutionally inoperative, was not deleted until 1956. Chapter 99, Laws of 1956.
- 582 See *In the Matter of Charles Taylor*, 48 Md. 28 (1877).
- 583 See *Mason v. Wrightson*, 205 Md. 481 (1954).
- 584 *Murray v. Maryland*, 182 A. 590 (Md. 1936); 169 Md. 478 (1937).
- 585 Rev. Beale Elliott for served many years as the distinguished pastor of Sharon Baptist Church. He was a graduate of Virginia Union and Yale University, majoring in religion and sociology. He was greatly loved and respected by religious and lay leaders and by the entire Baltimore community.
- 586 See *State v. Bell*, 227 Md. 302 (1962). Also 374 U.S. 805 (1963) and 236 Md. 356 (1964). After graduating from Morgan, with honors, and from Harvard Law School, Chief Judge Bell worked with the law firm of Piper and Marbury and served with distinction on each level of the Maryland judiciary. Judge Bell served on the District Court of Maryland beginning in 1975, the Circuit Court for Baltimore City beginning in 1980, joined the Court of Special Appeals in 1984, and was named to the Court of Appeals by Governor William Donald Schaefer in 1991. On October 23, 1996, Judge Robert M. Bell became the head of the same court that voided his 1964 trespassing conviction. As such, he was the twenty-third chief judge and the first African American chief judge in the two hundred twenty year history of the Court of Appeals of Maryland. Michael Dresser, *Bell Named to Head Maryland High Court*, BALTIMORE SUN, Oct. 24, 1996 at 1A, 10A. See also Dennis O'Brien & Michael James, *From a Name in Law Books to Top of Maryland Bench*, BALTIMORE SUN, Oct. 24, 1996 at 10A. Bell's sit-in occurred on June 16, 1960. Shortly before, on March 28 and 29, 1970, (now Judge) Kenneth Lavon Johnson and other Southern University students engaged in a sit-in in Baton Rouge, Louisiana. The resulting prosecutions were reversed by the Supreme Court in *Garner et al. v State of Louisiana*, 368 U.S. 157 (1961).
- 587 Art. 49B § 5-12 (1994 Repl. Vol.) It is notable that arbitrary discrimination in the early history of Maryland was not confined to African-Americans. "(U)ntil 1826 no Israelite could hold any office, civic or military, in the State government." The first "Hebrews" elected to office in Maryland were Hon. Solomon Etting and Hon. Joshua I. Cohen, to the Baltimore City Council. SCHARE, Note 37, at 119 and 120.
- 588 Judge Howard was greatly assisted by his brother Charles Preston Howard, who had lost an election to the House of Delegates in 1966. Charles P. Howard was himself a strong member of the Baltimore Bar. He died on December 14, 1996. *Afro-American*, December 21, 1996, A/3.

- 589 Judge Russell has made history in numerous other instances. In January 1996, he was selected to preside as a Judge in Yale University Law School's Moot Court of Appeals. He was elected a delegate to the American Bar Association, House of Delegates for the 1974–76 term. In 1973, Governor Mandel appointed him to chair the statewide Commission on Judicial Reform. In 1990, he headed a highly influential committee of the Bar Association of Baltimore City, which documented the impact of drug trafficking on our courts. The extraordinary and pioneering career of Mr. Russell has been well recorded in an unpublished monograph in the author's possession.
- 590 Judge Cole is known for his brilliance as a student, a lawyer and as a judge. He was the first African American lawyer to serve as an assistant attorney general. He was also the first African American to be elected to the State Senate. Judge Cole was appointed Chairman of the Board of Trustee of Morgan State University in 1995, after his successful service as chair of the Mayor's Charter Revision Commission.
- 591 Judge Watts, after a brilliant law school career, gained a reputation as a most effective trial lawyer, especially in the fields of civil rights and domestic relations. He has served a total of more than 20 years as a magistrate, a Municipal Court Judge and as a Judge of the Supreme Bench of Baltimore City. He is now "of Counsel" to the law firm of Piper and Marbury, in addition to serving as a Master in Equity for the Baltimore City Circuit Court. Judge Watts' early pleas for a Family Court are now being answered.
- 592 *City of Richmond v. J.A. Croson Co.*, 109 S. Ct. 706 (1989) (holding that the city of Richmond, Va. had failed to demonstrate compelling governmental interest justifying an affirmative action plan; and that the plan was not narrowly tailored to remedy the effects of prior discrimination.)
- 593 Compiled by the National Bar Association and the editors.
- 594 *The Invisible Bar—The Woman Lawyer in America: 1638 to The Present*, by Karen Berger Morello, Random House, New York, 1986
- 595 *Id.*, pg.6., 1986). See also Mary E.W. Ramey, *CHRONICLES OF MISTRESS MARGARET BRENT*, 1–12 (1915); Sophie H. Drinker, *Women Attorneys of Colonial Times* MARYLAND HISTORICAL MAGAZINE (1961).
- 596 *Id.*, 199
- 597 Gertrude James, a non-lawyer, was allowed to plead her own case in proper person in Maryland's colonial court system in the 1700's. MORELLO *supra* note 594, at 8.
- 598 *Id.*, 37
- 599 See WINIFRED G. HELMES, *NOTABLE MARYLAND WOMEN* 107–09 (Cambridge, Maryland, Tidewater Publishers, 1977).
- 600 *People Who Shaped the Way We Live*. BALTIMORE SUN MAGAZINE, May 17, 1987.
- 601 *Id.*
- 602 Telephone interview with writer, April, 1993, and remarks at Women's Bar Association annual meeting October 15, 1985.
- 603 See Judith Arnold, *The History of the Women's Bar Association, 1927–1974*.
- 604 Joan Gordon, *History of the Women's Bar Association of Maryland, Inc., 1927–1996*.
- 605 1957 Md. Laws 595.
- 606 HELMES, *supra* note 599, at 46–52.
- 607 Interview with Ashley Spencer, February 19, 1996.
- 608 Interview with Ashley Spencer, March 8, 1996.
- 609 See Arnold, Gordon, *supra* notes 579, 580.
- 610 1 Hale History of the Pleas of the Crown (1st American Ed. 1874) 633, 635.
- 611 U.S. NEWS & WORLD REPORT, January 15, 1996 (citing data from the ABA) at 14.
- 612 *Id.*
- 613 *Orner v. Board of Appeals, Employment Security Administration* [citation unknown] was tried before a *nisi prius* court with Judge Harry A. Cole presiding. In *Orner*, it was held that the disqualification of a woman from employment opportunities because of pregnancy was unconstitutional.
- 614 *Doerr & Douthirt v. Walton et al.* (1973). The complaint was filed in the U.S. District Court for the District of Maryland, but prior to trial, the case was settled.
- 615 *Vanguard Justice Society et al. v. Hughes et al.*, 592 F. Supp. 245 (D. Md., 1984).
- 616 *Stuart v. Board of Supervisors of Elections of Howard County*, 226 Md. 440 (1972).
- 617 Kathy Crosby, Historian, Alliance of Black Women Attorneys, June 15, 1996.
- 618 U.S. NEWS AND WORLD REPORT, *supra* note 611, 14.
- 619 Judge Hubbard, a member of the Alliance of Black Women Attorneys, was appointed to the District Court of Maryland in 1981 and was elevated to the Circuit Court for Baltimore City in 1985.
- 620 Special Joint Committee on Gender Bias in the Courts, *Gender Bias in the Courts*, May, 1989 at i.
- 621 *Time to Drop Old School Views of Women in Our Ranks*, THE DAILY RECORD, November 11, 1996 at 16A.

- 622 Interview with writer, December 4, 1995.
- 623 THE DAILY RECORD, October 7, 1995 at 1, 15.
- 624 U.S. NEWS & WORLD REPORT, *supra* note 611, at 14.
- 625 THE DAILY RECORD, *supra* note 623, at 1, 15.
- 626 Report of the ABA Commission on Women in the Profession, *Unfinished Business: Overcoming the Sisyphus Factor*, Chicago, 1995.
- 627 Judge Martha F. Rasin became one of the top three judicial administrators in the State of Maryland when she was appointed chief judge of the District Court of Maryland on September 17, 1996. Judge Rasin graduated from Mary Baldwin College in Va. in 1969 and received her law degree from the University of Baltimore School of Law at the age of 33. After working for Bruce Bereano Esq., she opened her own Annapolis law firm, and in 1989 was appointed to the Anne Arundel District Court where she served for seven years before becoming the chief judge of the District Court of Maryland. Thomas W. Waldron, *Rasin Named to Head State District Court*, BALTIMORE SUN, Sept. 18, 1996 at 1B, 5B. *See also* Thomas W. Waldron, *Martha Rasin Moved Quickly to the Top of Maryland's Legal World*, BALTIMORE SUN, Sept. 18, 1996 at 5B.
- 628 O'Neill, Thicia D., *The Emergence of Women in the Legal Profession*, 19 MARYLAND STATE BAR ASSOCIATION BAR JOURNAL 44 (July/August, 1996).
- 629 Morello, *supra* note 594, Intro, xv
- 630 Interview with Ashley Spencer, February 19, 1996.
- 631 *Id.*
- 632 The author, Francis J. Gorman, Esq., is a Baltimore practitioner and partner in the firm of Gorman & Williams. He has long been a student of the history of our federal judiciary.
- 633 For a full history of the judges of the United States District Court for the District of Maryland, *see* H.H. WALKER LEWIS & JAMES F. SCHNEIDER, A BICENTENNIAL HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND 1790-1990 (The Maryland Chapter of the Federal Bar Association 1990).
- 634 Judge Maletz was appointed a judge of the Court of International Trade in 1980; but sat as a judge in the District of Maryland by designation in 1987.